UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

ESTATE OF ERIC RIVERA, by and through successors in interest, PHILLIP MALIK and VALERIE RIVERA; PHILLIP MALIK, individually; VALERIE RIVERA, individually,

Plaintiffs,

vs.

Case No. 2:17-CV 06939-CBM

CITY OF LOS ANGELES; LOS ANGELES POLICE DEPARTMENT; ARTURO URRUTIA; DANIEL RAMIREZ, and DOES 1 to 10,

Defendants.

VIDEOTAPED DEPOSITION OF ARTURO URRUTIA

Long Beach, California

Thursday, December 27, 2018

Reported by: Gina Anne George
CSR No. 11260
LitiCourt Job No.: 201468

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VIDEOTAPED DEPOSITION OF ARTURO URRUTIA

taken on behalf of the plaintiffs at 3777 Long Beach Boulevard, Third Floor, Long Beach, California, beginning at 9:08 a.m., and ending at 2:33 p.m. on Thursday, December 27, 2018 before Gina Anne George, Certified Shorthand Reporter No. 11260.

APPEARANCES:

FOR THE PLAINTIFFS:

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ALSO PRESENT:

CRAIG SCHUMACHER, The Videographer
PHILIP MALIK
VALERIE RIVERA
ANDRES MARTINEZ
ARTURO URRUTIA
BRADLEY HEARN
MARC STERNIN
JAMES TALMAGE
BRIAN HUN

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WITNESS

ARTURO URRUTIA

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EXHIBITS

MARKED	DESCRIPTION	PAGE
Exhibit 10	Transcription of Recorded Interview of Police Officer Arturo Urrutia (Confidential)	81
Exhibit 11	Thumb drive of video (Confidential)	129

The information contained on pages 87 to 92, 130 to 131 and 167 to 171 has been designated as confidential and those pages are bound separately.

Exhibits 10 and 11 were marked in the non-designated portion of the transcript but have been designated as confidential and are bound with the confidential portion of the transcript.

QUESTIONS NOT ANSWERED

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LONG BEACH CALIFORNIA;
THURSDAY, DECEMBER 27, 2018; 9:08 A.M.

* * *

THE VIDEOGRAPHER: Good morning. We are on the record at 9:08 a.m., December 27th, 2018 for the videotaped deposition of Arturo Urrutia.

We are taking this deposition at 3777 Long Beach Boulevard in Long Beach, California, in the action entitled Estate of Eric Rivera, et al. versus City of Los Angeles, et al., Case No. 217CV06939CVM.

My name is Chris Schumacher. I'm the video production specialist from LitiCourt Corporation, located in El Segundo, California. This is DVD No. 1 of volume I.

Would counsel and all present please identify yourselves for the record.

MR. CASILLAS: Good morning. Arnoldo Casillas on behalf plaintiffs. With me today I have Philip Malik and Valeria Rivera, the plaintiffs.

MR. BRENTE: Good morning. Cory Brente on behalf of the City of Los Angeles and Officers Urrutia and Ramirez, also officers -- obviously

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Officer Urrutia is here.

Also present are Sergeant Bradley Hearn, Officer Marc Sternin, Detective Brian Hun, Sergeant James Talmage, Officer Andres Martinez and I already mentioned Daniel Ramirez is here as well.

///

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ARTURO URRUTIA,
having been first duly placed under oath by the reporter, was examined and testified as follows:

EXAMINATION

BY MR. CASILLAS:

Q Sir, for the record, would you state and spell your name?

A First name Arturo, A-r-t-u-r-o. Last name Urrutia, U-r-r-u-t-i-a.

Q No middle name?

A Antonio, A-n-t-o-n-i-o.

Q How old are you, sir?

A 41.

Q Mr. Urrutia, we're here to conduct a deposition. In the last few weeks you've sat through I guess one, right, or several. The procedure we're going to follow today is the same.

I have a series of questions related to an incident, an incident I understand you were involved in, the shooting and killing of Eric Rivera. I understand that you were one of the shooting officers. We'll confirm that in a second.

Ultimately, I have some questions about your background and your training, too.

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In preparing for today's deposition, did you review any documents?

A Yes, I did.

Q What did you review?

A Well, with my attorney -- with my attorney present I reviewed video, previous testimony and miscellaneous documents.

Q What was that previous testimony?

A That was from FID, the interview I gave to FID after this incident.

Q You gave that a couple of days after the incident, right?

A Yes.

Q You had gone to the hospital for a gunshot wound.

A It was not for a gunshot wound.

Q Did you ever tell anybody you had been shot?

A I stated that I possibly may have been shot.

Q Did you ever announce over the radio that you had been shot?

A I never announced over the radio I've been shot.

Q Did you ever tell anybody on scene that you've been shot?

A I remember stating I don't know. I wasn't

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sure.
Q Do you remember who you told that to?
A I believe it was Officer Chandler.
Q Anyone else?
A I don't recall.
Q Were you lying?
A No.
Q You believe you were shot?
A I wasn't sure.
Q Did you look for blood?
A No.
Q You believe you had been shot and you didn't look for blood?
MR. BRENTE: I'm going to object that misstates his testimony. He never testified he believed he was shot. He said he believe he might have been shot.
BY MR. CASILLAS:
Q You believe you might have been shot. Did you look for blood?
A No.
Q Why not?
A I didn't.
Q Do you know when one is shot that usually if your body is working, you'll bleed?

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MR. BRENTE: Objection; relevance.
BY MR. CASILLAS:
Q Do you know that?
A Not all the time.
Q Did you look to see if there was any blood?
A No, I didn't.
Q Did you look to see where you'd been hit?
A I knew it was somewhere in my right elbow area.
Q And as you did now, did you check to see if there was a wound of any sort?
A I felt pain.
Q After -- did you rub that area where you felt pain?
A I touched it.
Q Did you look at your hand?
A No.
Q When was it that you first believed that you might have been shot?
A Let's see. I recall -- I recall falling, then I recall hearing the police vehicle striking something. I recall getting up and then I recall -- initially I recall when I hit the ground -- I knew I hit the ground. I didn't feel anything. Later -- moments later I felt extreme pain, so --

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Q While you were still on the ground, you felt that pain?
A No.
Q When was it that you first in that sequence of events that evening was it that you formed the conclusion that you might have been shot?
A When I felt the extreme pain after the adrenaline had worn off.
Q And certainly being shot is a very serious thing. Would you agree? Yes?
A Uh-huh.
Q Is it safe to say that you would not lie about that?
A Of course I would not lie.
Q Why not?
A It's just not right to lie.
Q It is not right to lie. Any other reason?
A No.
Q Did you want to exaggerate the risks that were present in that encounter by indicating that you had been shot?
A Of course not.
Q Why didn't you want to exaggerate things?

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A The seriousness of the event already was at a high level. I did not have time to lie or make up stuff at the moment and I wouldn't.
Q Why not?
A Why should I?
MR. BRENTE: Asked and answered.
BY MR. CASILLAS:
Q To falsify the threat for first -- for the first reason, and that's the purpose of my questioning is, were you intending to exaggerate or lie about the circumstances you've encountered?
A Of course not.
Q You wouldn't do that, correct?
A Nope.
Q Would you agree that that would be against the policies and procedures -- the policies of the LAPD?
MR. BRENTE: Now I'm going to object that calls for improper conclusion.
You can answer.
THE WITNESS: Policies and procedures, honesty -- honesty as a general, it's not a rule, but it is something that as a police officer, you abide by honesty. Lying, you would therefore -- therefore be dishonest. I'm not a dishonest person.

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BY MR. CASILLAS:
Q Did you understand in making statements with respect to the incident to investigators that you were to be completely truthful?
A Of course.
Q And were you completely truthful?
A Yes.
Q Did you in discussing this matter with any of the investigators attempt to exaggerate any fact?
A No.
Q In discussing this case with any of the investigators, did you attempt to diminish the significance of any fact?
A What do you mean by diminish the significance? Of what fact?
Q Any fact. First of all, to diminish means to --
A I do know what diminish means.
Q You do?
A Uh-huh.
Q Good. You seem like a smart man.
MR. BRENTE: Okay. Let's -- we don't -- you can save the compliments there. It's just false. I mean, so we can just -- let's just dispense with that.

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MR. CASILLAS: It's a nice compliment for a nice officer.
MR. BRENTE: We all know why we're here, so we can just -- we can save it.
BY MR. CASILLAS:
Q Anyway, in the last five years have you been deposed?
A No.
Q Okay. Is this the first time ever giving a deposition?
A A deposition, yes.
Q I'm assuming you've testified in court countless times.
A No.
Q Thousands probably?
A No, not thousands.
Q How many?
MR. BRENTE: If you can give him an estimate, he's entitled to an estimate, but don't guess.
THE WITNESS: A lot. I can't say for sure how many.
BY MR. CASILLAS:
Q Anyway, the testimony you're giving today has the same weight, the same effect of the testimony

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that you've be given in trial. You've taken an oath to tell the truth.
Do you understand perjury?
A Yes.
Q What is perjury?
MR. BRENTE: Okay. Don't even answer that. That is -- that's completely inappropriate. It's just beyond the pale. He understands. He acknowledged he knows he's under an obligation to tell the truth, so move to something else, please.
BY MR. CASILLAS:
Q There's a court reporter to my right, a court reporter to your left. She's taking everything down word for word. Sometime after today's proceeding she's going to prepare a transcript. We're going to get that transcript to you. We are going to ask you to read it. We're going to ask you to make any changes that you think are necessary, and we're going to ask you to sign it under the penalty of perjury again.
Would you agree to do that?
A Of course.
Q If you answer any question, I'm going assume three things: I'm going to assume that you heard the question, I'm going to assume that you understood the

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question, and I'm going to assume that the answer you give today is the best answer you can give.
Is that fair?
A That's fair.
Q Okay. In light of that, do you promise to tell me if there is a word or phrase that I use in a question that you don't understand?
A Yes.
Q Okay. If I ask for a definition of a word or a phrase, I want the definition that you commonly use. I don't need you to give me a Webster's dictionary definition.
And the reason I say this is because I want to make sure that you and I are speaking the same language.
Do you understand that?
A Yes.
Q If you don't understand a question, do you promise to let me know?
A Yes.
Q Okay. Your attorney is here. He's here to defend you, and to the extent that you need to talk to him for any reason, let me know and I will pay you that courtesy.
Fair enough?

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A Yes.
Q All right. Before we start, do you have any questions?
A No.
Q Okay. In the last 24 hours have you consumed any alcohol?
A No.
Q In the last 24 hours have you consumed any drugs, legal or not legal?
MR. BRENTE: Okay. So I'm going to object and instruct him not to answer that; that violates his right to privacy and potentially HIPAA.
I will let you ask him a question if he's consumed any prescription medication that he believes would interfere with his ability to understand your questions and answer them, but the blanket question of whether or not he's taken any medication, I won't allow him to answer.
BY MR. CASILLAS:
Q In the last 24 hours have you had sufficient amount of sleep such that today you're feeling fresh and capable of answering all the questions honestly?
A Yes.
Q You didn't work a long shift last night and had to roll in here early?

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A No.
Q Okay. The during the deposition I may ask you to give me an estimate, an estimate of the time that elapsed between two points, the distance between two points, maybe the number of times something may have happened. Okay. I want to make sure that we're perfectly clear that you are not to guess.
A Okay.
Q Do you understand that?
A Yes.
Q All right. And are you sufficiently comfortable in distinguishing between a guess and an estimate?
A Yes.
Q Okay. Now, are you currently employed?
A Yes.
Q What do you do for a living?
A I'm a police officer for the City of Los Angeles.
Q And how long have you been an officer?
A About 17 years, approximately three months, something like that, three months.
Q What is your current assignment?
A I'm a field training officer.
Q What division?

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A Newton division.
Q How long have you been a field -- an FTO in Newton?
A In Newton? Let's see. Approximately I've been at Newton four months, something like that.
Q You're a P-III?
A Yes.
Q How long have you been a P-III?
A Let me see. I think a little over nine years approximately.
Q Have you ever test for sergeant?
A I did once.
Q Unsuccessfully?
A I passed the written test. I didn't do too good in the oral, so I didn't band on it. It's kind of a ranking.
Q Before your assignment in Newton as FTO, what was your previous assignment?
A Before Newton, I was at Seasock. Before that I was at the Harbor -- Harbor Division.
Q Before that?
A Before Harbor, I was at Metropolitan division.
Q Before that?
A I was at Newton.

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Q Before that?
A I was at Harbor.
Q Before that?
A Internal affairs.
Q Before that?
A The academy.
Q Before coming to work for the LAPD and starting the academy, did you work with any other law enforcement agency?
A No.
Q Before coming to the academy, were you a member of the armed forces?
A Yes.
Q What branch?
A Marine Corps.
Q What's your MOS?
A 0311.
Q What was that?
A Infantry.
Q What period of time were you in the infantry?
A Well, I joined the Marine Corps in September of 1995 until September of 1999.
Q Was there any particular deployment that you were a part of?

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A I went to Okinawa twice.
Q Other than Okinawa, any other assignment or deployment?
MR. BRENTE: I'll object as compound.
But you can answer.
THE WITNESS: No. Well, during Okinawa, then we would go to other countries and do training and stuff like that, but nothing major.
BY MR. CASILLAS:
Q Your first assignment out of the academy I understand was working with internal affairs.
What was that particular assignment? What did you do?
A In a nutshell --
Q Uh-huh.
A -- find dirty cops.
Q How did you go about doing that?
A Worked undercover.
Q Doing what?
A Posing as members of the community, sometime bad members, such as gang members.
Q How long did you do that?
A One year. That was my probation actually.
Q So you served as an undercover officer playing the part of a gang member, yes?

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A At times, uh-huh.
Q Any other role that you played?
A Let me see. I'm trying to recall certain ones. Those individuals at Home Depot who -- what do you call that, the ones that solicit work?
Q A day laborer?
A Yes.
Q Did you catch any dirty cops?
MR. BRENTE: Okay. So I'm going to object that would be the result of a confidential LAPD internal investigation, so he's not going to answer that.
MR. CASILLAS: No. It's a yes or no question.
MR. BRENTE: And my instruction remains the same.
BY MR. CASILLAS:
Q Is there a name of the particular unit that you worked at that was looking for dirty cops?
A Yes.
Q What was the name of that unit?
A At the time -- I don't know if they still have it -- it's called ethics enforcement section.
Q Did you attempt to bribe officers as part of the work that you did for the ethics enforcement unit?

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A No.
Q What was the type of work that you did in the ethics enforcement unit to catch dirty cops, you particularly?
A Undercover.
Q I know. I get that. I understand that you were undercover acting as a gang member. For example, what was the nature of the work that you did to try to catch dirty cops?
A Well, for example, that gang member will just pose as a gang member. There's certain elements of the investigation that --
MR. BRENTE: Are confidential?
THE WITNESS: Correct.
BY MR. CASILLAS:
Q And I certainly don't want any of that, but I want a general description of the activity you engaged in to try to catch dirty cops.
MR. BRENTE: So if you can answer his question, you can answer it. If you believe that any part of your answer would violate any kind of confidentiality, give away any kind of trade craft or any kind of weighing what the LAPD conducts in its investigations, then you won't be able to answer that

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part of the question.
THE WITNESS: Yeah, I don't think I'll be able to answer that.
MR. CASILLAS: Cory, with all due respect, I appreciate your objections and you've got an important job here to do here today, but I'll ask you that you not coach. Okay. That last example was a textbook example of coaching. Okay. I'd ask that you desist and if you're going to continue, we will suspend the proceedings.
MR. BRENTE: Okay.
MR. CASILLAS: And I'm real serious about that.
MR. BRENTE: Right.
MR. CASILLAS: If you want to take him aside and talk to him about that, you're more than welcome to, but not while the question is pending and certainly not giving an objection that in it suggests or contains the answer.
MR. BRENTE: Okay. So I guess because we are creating a record, I'll just disagree. You appropriately, I think, said that you didn't -- or weren't seeking any information that was confidential.
My instruction to him was really to allow

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him to answer that part of the question, if there is a part, that would not violate any confidentiality, so I was merely giving him some guidelines so that he could determine what part of your question he could answer and what part he couldn't answer.

BY MR. CASILLAS:

Q As part of the work that you did undercover as a gang member, were you identifying particular police officers?

A Yes.

Q Were you identifying particular police officers that had been accused of misconduct?

A Yes.

Q Were you targeting police officers that were accused of excessive force?

A Yes.

Q Were you targeting police officers that had been accused of wrongful arrests?

A Yes.

Q Were you targeting police officers that were accused of planting evidence?

A Yes.

Q Were you targeting police officers that were accused of falsifying statements in police reports?

A Yes.

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Q Did your work result in the conviction of any police officers?

A I would say I'm not sure on that one.

Q Did it result in the disciplining of any police officers?

A I don't know.

Q After about a year there working for internal affairs -- and by the way, were you pretty good at impersonating a gang member?

A I looked the part.

Q What do you mean by that?

A I got -- I dressed down in gang -- shaved my head. I looked like a gangster.

Q Talked the talk, walked the walk kind of thing?

A Yeah.

Q Did you grow up in an area that familiarized yourself with gang activity?

A I had cousins who were gang members.

Q And did you -- the work that you did for IA involving being a -- or posing as a day laborer, were you targeting officers that were abusive to day laborers?

A I don't recall. I just did what I was told. Remember, I was a rookie.

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Q I guess with respect to the work that you did as a day laborer, again, were you targeting officers that were being accused by day laborers of excessive force?

A I don't recall.

Q Do you recall any of the allegations that you were investigating when you were impersonating a day laborer?

A I don't recall.

Q How about the taking of bribes?

A No.

Q You went to Harbor for how long after IA?

A Oh, let me see. So I -- I wheeled out to Harbor in my probationary period in IA. I think I was there approximately a year, something like that, something like that.

Q General patrol?

A Yes.

Q And what was the period of time that you were there?

A I think, like I said, like a year approximately.

Q So that would have been maybe 2002 to 2003?

A Yeah, '02, '03, something like that.

Q You did your probationary period in IA.

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When you went to Harbor doing patrol, did you go through an FTO period?

A No, I suffered at Harbor.

Q What do you mean by that?

A Because I didn't -- I didn't -- I never had formal training in patrol, so when I went to Harbor, I was a P-II, nonrookie status, and I didn't know jack. Every day after rollcall I would literally -- whoever they paired up, Urrutia, you're working with so and so, I would tell them, hey, I don't know jack. I said other words, but -- and then I would tell them help me out.

And there was a time where I got so frustrated I was going to resign because this is a P-II. You're amongst P-IIs, you got to at least know some semblance of patrol work and I didn't.

Q Did you bring that up to a sergeant?

A No.

Q Why not?

A I sucked it up.

Q So you basically went out into the field unprepared.

Would you agree?

A It wasn't -- awe, no.

Q Well, you hadn't received any FTO type

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training about the basics of patrol work.
Would you agree to that at least?
A Patrol -- it was -- I received a subjective approach, meaning I did have an FTO in IA, but it was always like, okay, this is what you'll do. Never out in the real world.
Q Right.
A So it was kind of like a rookie. As a rookie, I still had it, but I -- now the whole patrol aspect I had to -- I didn't have that training officer right there and then, so I had to learn fast, which I did.
Q On the job?
A Correct.
Q And you were pretty good at that?
A Yes.
Q How did you accomplish it?
A Working hard.
Q What do you mean by that?
A I wouldn't -- reports -- I would always make copies of reports, go home, study them. I would go to the records, get all these types of reports, make copies and study, study, study and eventually -- I'm a good learner. I learned fast. I had to.
Q Yeah.

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A There was that one point where I said I became flustered, but it didn't last long.
Q How long did it last?
A I overcome, perseverance.
Couple days.
Q So in a couple days you pretty much learned the nuts and bolts of patrol work, right?
A No, the part where I was flustered, I got over it.
Q What was that part, report writing?
A No.
Q What was --
A No, it was tough. Like what's called a DFER, back then we had to literally --
Q Write in it?
A Yeah. And all the little intricacies associated with that.
Q That's the daily field activity report --
A Correct.
Q -- right?
A Uh-huh.
Q And did anybody teach you how to fill out a DFER, for example?
A They helped me. People -- that's why I love Harbor, to this day there's some people over there

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that were with me and they were so good to me.
Q Did you work with Adolph Rodriguez?
A Is that -- I believe he's from the league, right?
Q Yes, now he is.
A I never partnered with him, but I saw him. I saw him in the kit room. K-i-t.
MR. BRENTE: Counsel, I've got a call I have to take.
MR. CASILLAS: We'll take a break.
THE VIDEOGRAPHER: Off the record, 9:39.
(Recess taken.)
THE VIDEOGRAPHER: Back on the record, 9:45.
BY MR. CASILLAS:
Q Mr. Urrutia, before we left we were talking a little bit about the work that you did in Harbor and how you had -- you didn't go through formal FTO training. Obviously you're an FTO now.
A Yes, sir.
Q Okay. And initially when rookies came out of working -- to use your word, come out of the academy, they go through an extensive FTO training period in patrol, correct?
A Yes.
Q And that period is, what, a year long?

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A Correct.
Q And the year that you did was -- your probationary year was in internal affairs, right?
A Yes.
Q Did you do any patrol in internal affairs?
A No.
Q Okay. Were you partnered up with an FTO that had been on patrol while you were in IA during that probationary period?
A Yes.
Q Okay. And did you do patrol stuff? I mean, you yourself weren't in uniform, though, right?
A No.
Q Okay. And I'm trying to imagine it. I don't want to exaggerate things, but I'm assuming you would get an assignment and you would basically go into the field, correct?
A Correct.
Q All right. And your day would be spent in large part playing different roles in an effort to catch dirty cops, correct?
A At times, yes.
Q Okay. And at other times would you be doing surveillance?
A Yes.

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Q What other things would you be doing?
A Administrative work, looking over the vehicle code, training bulletins, orders, stuff like that.
Q Is it safe to say that the majority of the time was spent doing field work?
A No.
Q 50/50?
MR. BRENTE: 50/50 what?
BY MR. CASILLAS:
Q 50/50 administrative work and field work.
A It was mostly administrative being inside, yeah.
Q At a desk?
A Correct.
Q Studying?
A That's what I would do.
Q And the rest of the time you would be out performing the assignments you were tasked with, right?
A Correct.
Q From Harbor you went to Newton?
A Yes.
Q How many years were you at Newton that first time around?

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A I'd say four.
Q And what was your assignment there?
A At Newton I started off patrol.
Q And then?
A Then I went to the special problems unit.
Q And how long were you doing that SPU unit?
A That unit, approximately six months, something like that.
Q Did you target any particular activity?
A Yes.
Q Do you recall what it was?
A Very general areas, RDs where there were crime spikes like burglaries, stuff like that.
Q And after your work with the SPU, what -- what was your next assignment there at Newton?
A I worked the gang unit.
Q How many years?
A I think approximately two years.
Q After gangs there at Newton, what did you do?
A Then I went to metropolitan division.
Q Patrol?
A At Metropolitan division?
Q Yes. And did you do patrol at Metro?
A There are certain elements that can be

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considered patrol like, like -- like direct -- crime suppression, that's basically a patrol function. They just -- it's a fancy way of saying go patrol in this little area.
Q And how long did you do that at Metro, the patrol?
MR. BRENTE: How long did you do what?
THE WITNESS: How long do I do patrol?
MR. CASILLAS: Yes, in Metro in this special assignment you're describing here.
MR. BRENTE: So I'm going just to object that misstates his testimony. He never did patrol in Metro. He said he did crime suppression.
BY MR. CASILLAS:
Q Okay. This crime suppression that you did there in a patrol car in Metro, how long did you do?
MR. BRENTE: That lacks foundation. He never said he was in a patrol car.
BY MR. CASILLAS:
Q Were you in a patrol car when you were doing crime suppression in metro?
A Not in a black and white.
Q Single unit or single-person unit?
A No.
Q How long did you do crime suppression in

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Metro?
A It varied. It varied every day, so the night before a shift we would call -- it's called pull our pin and they'd say, hey, you're going to be in so and so or you're going to do -- have training. I -- I'd venture to say, crime suppression, I'd say probably 60 percent of the time.
Q And what were the other duties at Metro?
A Training, training days.
Q Anything else?
A Sometimes we'd have dignitary protection details.
Q Anything else?
A No, that's it that I partook in.
Q And you were there doing all those functions I think you said for about -- how long were you there? I'm sorry.
A A little over a year.
Q And from there you went back to Harbor division.
Was that something you sought out?
A No.
Q Okay. And what did you do at Harbor division when you returned?
A A field training officer.

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Q Now, a field training officer, is that something you yourself sought out, that assignment?
A Yes.
Q Okay. And after being assigned to FTO, I understand that the LAPD has or had for lack of a better word an FTO school?
A Yes.
Q Did you go to the FTO school?
A Yes.
Q How long was it?
A At the time two weeks.
Q And what was covered at FTO school that you can recall?
A It runs the gamut. Just how to train P-I's, generally speaking.
Q Were you instructed at FTO school about the LAPD policies?
A Yes.
Q And were you also instructed as to how to teach proper field tactics to trainees?
A Yes.
Q And what did that training consist of? In other words, how did the LAPD at FTO school train you to train rookies as to field tactics?
A Well, there's policies and procedures which

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you know, you teach the P-I's.
Q Is that what they said, hey, look, here's the policies and procedures, go teach them?
A Basically.
Q Really? Did you think that was a good approach?
A It's -- they told me I have material and I'm -- from what I learned, I -- in my own way, I instructed, the P-I's.
Q You yourself had never been with a patrol FTO, correct?
A I did have an FTO. He had been in patrol.
Q My question is -- that's a different question. I appreciate your answer.
You yourself had never been a rookie with a patrol FTO out doing patrol, correct?
A Correct.
Q So I mean, did you just kind of like you did when you went out to patrol the first time kind of learn it as you went along, kind of on-the-job training?
A I don't understand your question.
Q Well, you'd never been a rookie with an FTO out in patrol, and all of the sudden you're an FTO out on patrol with rookies.

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Did you -- what experience did you rely on to teach your rookies?
MR. BRENTE: I'm going to object to the form of the question, all of the sudden you're out. He testified about the assignments he had in between, so I object to the form of the question.
BY MR. CASILLAS:
Q You can answer.
A You just said it, basically experience.
Q And with respect to tactics -- and I imagine that one of the things that you focus on as an FTO when you have a new recruit is an emphasis on safe tactics; is that true?
A Correct.
Q And to teach safe tactics, what did you rely on?
A Experience.
Q At FTO school did they provide you any training as to what tactics you would have to teach your trainees?
MR. BRENTE: I'll just object as vague and ambiguous.
You can answer if you understand.
THE WITNESS: I don't understand.
BY MR. CASILLAS:

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Q Well, is there -- I mean, you know what a felony stop is, right?
A Correct.
Q Okay. At FTO school did they cover how to train a recruit as to a proper -- let me rephrase that.
At FTO school did they train you how to train rookies as to how to conduct a safe felony stop?
A No.
Q At FTO school did they train you how to properly train a rookie as to the use of force?
A No.
Q At FTO school did they train you how to train a rookie as to how to safely operate a patrol car?
A No.
Q As an FTO is one of the jobs you perform the review of police reports?
A Yes.
Q At FTO school did they give you instruction as to how to review a police report?
A No.
Q And I'm not being argumentative, but do you remember any of the instruction that was given to you

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at FTO school, any subject?
A Well, documentation.
Q What do you mean by that?
A For example, the P-I dailies.
Q What's a P-1 daily?
A It's basically annotating what a P-1 has done or a certain incident.
Q What do you mean by that? I'm not following. I'm sorry.
A For example, if we go handle a burglary investigation, I will annotate how the P-1 handled it.
Q Is it safe to say you have a checklist of things to cover with your P-1s?
A There is a checklist.
Q Okay. And is that what you're referring to when you talk about documenting or annotating?
A That's part of it.
Q Okay. What else is part of it?
A Well, that, and you have your dailies and you have your PPOWR.
Q Your PPOWR?
A Yeah, it's a -- it's an acronym.
Q Go ahead.
A Probationary police officer weekly rating.

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Q And so every week you give them a grade for all intents and purposes?
A Yes.
Q And covering all aspects of things?
A Yes, for the most part.
Q And is there a hierarchy of things that you're supposed to cover when you first start with a rookie?
A A hierarchy, no.
Q Yeah. In other words, out the gate, hey, look, before you go out in the field, make sure that, you know, X, and make sure that he knows Y and make that he or she knows Z, anything like that?
A That depends on the FTO.
Q Okay. Well, I'm going to rely on your experience.
And do you yourself have a custom and practice before you get out on the road, this guy or gal is green as they come out of the -- the academy, do you sit him down and say, hey, look, you know, we're going out there and it's kind of dangerous, here's what you need to know, here's what you need to do?
A Yes.
Q And what is the nature of that conversation?

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What do you tell them?
A I tell them to be extremely attentive.
Q And what do you mean by that? I mean, they're, like, well, I'm awake, you know. Mr. Urrutia, what do you mean by that?
A There's bad people out there.
Q You tell them that?
A Yes.
Q Okay. What else do you tell them?
A Basically, generally speaking, it's very broad. I could...
Q He's not going to help you. Just go ahead and answer the question.
A Be careful out there, you know, know where you're at, listen to the radio. It's very general stuff.
Q Do you talk about ever -- and by the way, as an FTO -- strike that.
I understand that during the probationary period that a new recruit from the academy spends with FTO officers, that that trainee progresses in terms of the responsibility he or she is given; is that accurate?
A They do progress.
Q Or at least --

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A I hope.
Q At least you hope they do, right?
A Yeah.
Q In other words, you know, the -- there's -- are there stages in your probationary FTO training?
A Yes.
Q And are you familiar with those stages?
A Yes.
Q What are the stages that a raw recruit goes through from the time he or she starts until the time that period ends?
A There's three stages.
Q What are they?
A Well, there's phase one, phase two, and phase three and each one is four months.
Q Okay. In phase one, what's covered?
A See, it varies with the FTO. It's -- because, for example -- how do I explain this? There's guidelines for each phase and some of those guidelines you may not encounter.
For example, a felony stop, what you'll do for, let's say, each respective phase if you -- if you have to cover that, you -- you have to be one on one and teach them, give them examples, because you will not always cover them, so...

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Q So are you saying that there's certain things that they have to cover and maybe sometime when you're out in the field engaging in police work you just don't encounter that activity?
A Correct.
Q So a felony stop, for example, it may be that during the first half hour of your first day with a new recruit you have a felony stop never having covered it with him or her. Fair?
MR. BRENTE: So I'm going to object to the form of the question, assumes facts not in evidence, lacks foundation.
BY MR. CASILLAS:
Q Let me rephrase the question here.
The first phase of FTO training, what is it intended as far as you understand -- and I should ask, first of all, do you teach all three phases?
A It depends at what point I get P-1.
Q Okay. I guess that's -- you're clairvoyant.
A trainee during his probationary period does not have the same FTO start to finish, correct?
A Correct.
Q And it may be sometimes that you may have an FTO for phase one and then later on in phase three maybe have the same FTO; that happens, too, right?

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A It happens.
Q You as an FTO officer, do you train all three phases?
A I have.
Q Okay. And at FTO school did they teach you what materials you were supposed to cover in each of the phases?
A They review it.
Q What do you mean by that?
A They say you have a guideline. That's it.
Q The first phase -- and is it called phase one, phase two, phase three, by the way, are they called?
A Yes.
Q Phase one, what are you supposed to teach a trainee during phase one?
A During phase one it could be from report writing to community relations to patrol procedures. There's literally like -- like 20 guidelines.
Q There are 20 items they're supposed to --
A Something like that.
Q As you sit here today, you don't know them?
A I know them.
Q Can you recite them?
A I can tell you patrol procedures, report

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writing, community relations, tactics, use of force, and then those are divided into subsections. For example, patrol procedures, it goes -- it goes from regular patrol to having radio calls, radio communications.
Q Basics, would you agree?
A Correct.
Q And how is it during FTO training do you make sure that your trainee understands the proper tactics? For example, one of the items in phase one, is there a series of particular tactics that you as an FTO are supposed to cover?
A Say that question again.
Q You told me that in phase one during that basic phase an FTO officer, your experience has been that that is where you cover basics, true?
A Correct.
Q With respect to tactics, that portion of FTO training that you teach, phase one, what are you supposed to cover with the trainees in terms of tactics?
A Well, for example, there's patrol procedures. With that encompasses traffic stops, pet stops, very general, things like that.
Q Felony stops?

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A Yes.
Q What is a felony stop?
A A felony stop is a stop on -- basically on an individual or individuals who are suspects who more than likely were involved in a felony crime.
Q And did you learn as an FTO at FTO school the proper way to train a trainee as to how to conduct a felony stop from a patrol car?
A You learn that in the academy.
Q So that wasn't covered in FTO school?
A No.
Q Do you yourself as an FTO teach the proper -- let me rephrase that.
Do you as an FTO teach the proper tactics to be followed in a felony stop to ensure officer safety?
A Yes.
Q And what are those tactics?
MR. BRENTE: I just object as vague and overly broad.
But you can answer.
THE WITNESS: Well, as it relates to a felony stop, you have the communications, you have as it relates to you getting your back up, your air ship, your supervisor, then doing the stop, the

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positioning.
BY MR. CASILLAS:
Q Anything else?
A There's -- like I said, it's very broad, you have to...
Q Like I said, he ain't going to help you.
A No, I'm just saying -- in regards to -- let me see. I basically encompassed it already, the communications, the location of the stop, how to position your vehicle, how to position the suspects, how to make an approach, clearing the car, that's it.
Q With respect to positioning the vehicle -- and first of all, you gave me your definition of a felony stop that -- you yourself have conducted many felony stops.
A Yes.
Q As an aside, other than the incident involving Eric Rivera, had you before that incident fired your weapon in the line of duty outside of training?
MR. BRENTE: So I'm going to object that calls for confidential peace officer personnel record information, violates the officer's right to privacy and instruct him not to answer.
MR. CASILLAS: I propose, Mr. Brente, that

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we go on a confidential portion of the transcript to cover this matter.
MR. BRENTE: I appreciate the offer, but I decline.
MR. CASILLAS: Okay.
BY MR. CASILLAS:
Q Mr. Urrutia, other than Eric Rivera, have you fired your firearm in the line of duty at any suspect?
MR. BRENTE: I'm going to object that calls for confidential peace officer personnel record information, official information, violates the officer's right to privacy.
Instruct him not to answer.
MR. CASILLAS: Same offer.
MR. BRENTE: Same response.
BY MR. CASILLAS:
Q Mr. Urrutia, as a result of the shooting of Eric Rivera, did the LAPD impose any discipline upon you regarding any of the circumstances in the incident?
MR. BRENTE: So I'm going to object that calls for confidential peace officer personnel record information, official information, and violates the officer's right to privacy.

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Instruct him not to answer.
MR. CASILLAS: Same offer.
MR. BRENTE: Same response.
BY MR. CASILLAS:
Q Mr. Urrutia, as a result of shooting Eric Rivera, were you required to undergo any training?
MR. BRENTE: So I'm going to object that calls for confidential peace officer personnel record information, official information, and violates the officer's right to privacy.
Instruct him not to answer.
MR. CASILLAS: Same offer.
MR. BRENTE: Same response.
BY MR. CASILLAS:
Q Before we went off on that tangent, Mr. Urrutia, we talked about your work as a FTO officer.
And you've been doing that for how long, by the way?
MR. BRENTE: Do you mean what's the total amount of time --
MR. CASILLAS: Yes.
MR. BRENTE: -- he served as an FTO?
MR. CASILLAS: Correct.
THE WITNESS: Approximately -- I'd say

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approximately nine years.
BY MR. CASILLAS:
Q And at the time that you were involved in the encounter where you shot and killed Eric Rivera, how long had you been an FTO?
MR. BRENTE: I'm going to object and instruct him not to answer that question because it assumes a fact not in evidence that he, Officer Urrutia, killed Eric Rivera. There's no evidence of that here and he wouldn't be qualified to give that answer, so he won't answer that question as phrased.
BY MR. CASILLAS:
Q Okay. You shot Eric Rivera.
A Yes.
Q How many times did you fire?
A Four times.
Q Do you know if any of the bullets that you fired at Eric Rivera struck his body?
MR. BRENTE: Okay. So I'm going to object on two grounds: one is vague as to time as in what his impression was that night versus what he knows now, and then give him this instruction, if the answer to the question as to what he knows now he knows from his lawyers, then he can't answer that question. If what he knows now he knows from any

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source other than his lawyers, he can answer that question.
MR. CASILLAS: I'll ask the court reporter to reask the question for us.
(Record read as follows:
"Q Do you know if any of the bullets that you fired at Eric Rivera struck his body?")
MR. BRENTE: I still object as to vague as to time.
BY MR. CASILLAS:
Q You can answer.
A Yes.
Q Do you know how many of the bullets that you fired struck Eric Rivera's body?
A Three.
Q And how do you know that without, of course, revealing any conversations you had with your attorney or any representative from their office?
A Well, I learned that with my attorney.
Q Do you know if any of the bullets that you fired at Eric Rivera struck him in the head?
MR. BRENTE: Okay. So I don't think -- I guess I'm not doing my job, so I'll try again. To the extent that you know the answer to that question

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from anything you learned from one of your lawyers, you can't answer it. If you know the answer to that question from any other source other than your lawyers, you can answer the question.
THE WITNESS: From what I learned with my lawyer, yes.
BY MR. CASILLAS:
Q Returning to the question of felony stops. I think you mentioned that one of the things you train your trainees is the -- how to safely position a vehicle in a felony stop; is that true?
A Correct.
Q And what do you teach them about that subject? In other words, how do you instruct them with respect to the safe positioning of the vehicle during a felony stop?
A I will literally position -- at the station I'll literally position the vehicle, use multiple vehicles and just like that.
Q Now, obviously there's various different types of felony stops.
Would you agree?
MR. BRENTE: I'm going to object as vague and ambiguous different types of felony stops.
MR. CASILLAS: Yes.

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THE WITNESS: Can you elaborate?
BY MR. CASILLAS:
Q Sure. There could be a felony stop that involves a vehicle that you're pulling over, correct?
A Correct.
Q Okay. There could be a felony stop involving a motorcycle.
Would you agree?
A Correct.
Q There could be a felony stop involving a bicycle, right?
A Correct.
Q There could be a felony stop involving a pedestrian.
Would you agree?
A Correct.
Q Okay. And for each one of those different scenarios, is there a different way to position the vehicle? And again, what I'm relying on -- and my question relates to what you teach your trainees.
A It's not set in stone as it relates to -- situations are very fluid. For example, ideally you want to get right behind the vehicle like two, two and a half car lengths.
Q Right.

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A But sometimes that doesn't happen. You'll have a vehicle go into a driveway and you have to adapt, adjust, so there's different ways.
Q And do you yourself in terms of the training you give to your trainees, do you give them guidance in any way as to how to adapt and adjust?
A Yes.
Q What do you tell them in the scenario, for example, that you just described?
A Well, I tell them that you may -- like I said, you may have a vehicle that will turn into a driveway, you have to adjust meaning -- the passenger may not have eyes on the suspects and you'd have to reposition. It's all -- it's -- it -- it depends on the scenario.
Q With respect to felony stops involving pedestrians on a sidewalk, do you provide as an FTO instruction as to how to safely conduct a felony stop?
A Yes.
Q Okay. And what do you tell your trainees with respect to that subject?
A Once again, situations are different, but what I relay to them that's very important is notify communications. When there's ample time, notify

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communications that you need a backup, airship, and supervisor. Ideally, that's what you would want to do.

Q I just want to paraphrase here but -- and first of all, pedestrian -- the subject of how to safely conduct a pedestrian felony stop from a patrol car is one of the subjects you as a field training officer are supposed to cover with your trainee. Yes?

A Felony pedestrian stop?

Q Felony pedestrian stop, yes.

A We cover felony stops that encompasses vehicle, peds.

Q Okay. So we got that out of the way. You're supposed to teach them how to safely conduct a pedestrian felony stop. Yes?

A A felony stop.

Q Yes.

A Felony stops encompass pedestrian, vehicle, motorcycle, bicycle, like you stated earlier.

Q And other than telling them to make sure that they properly communicate, do you tell your trainees anything else?

MR. BRENTE: Okay. So I'm going to object that misstates that his testimony. He said if there

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was time and ideally, so you're misstating his testimony.

BY MR. CASILLAS:

Q Okay. Let me rephrase the question.

Other than covering the subject of communication, if there's time, ideally, is there any other subject you cover with your trainees with respect to how to safely conduct a pedestrian felony stop?

A Commands, your cover, what I already stated, communications, waiting for backup.

Q Anything else?

A Positioning.

Q Anything else?

A That's it for now.

Q With respect to positioning, what do you tell your trainees when you teach them how to conduct a safe pedestrian felony stop?

A The importance of cover.

Q So you say, hey, look, we're going to cover a pedestrian felony stop and cover is important?

MR. BRENTE: That's argumentative.

MR. CASILLAS: It is.

BY MR. CASILLAS:

Q But is that what you tell them? Is that what you tell them?

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A That's part of it.

Q Okay. And do you leave it at that?

A No.

Q What else do you tell them?

A Like I stated, there's communications.

Q No. No. No. I'm just focusing positioning, strictly positioning.

Other than telling --

MR. BRENTE: Are you talking about positioning of the black and white?

MR. CASILLAS: Yes.

THE WITNESS: The importance of cover.

BY MR. CASILLAS:

Q Anything else?

A Yeah, the importance of cover, waiting for your backup, waiting for the airship.

Q I'm sorry. I'm going to focus very carefully on the subject of positioning. Okay.

And, again, with respect to a felony stop of a pedestrian -- do you understand the parameters?

A Correct.

Q Okay. Other than telling them cover is important and positioning, is there anything else you tell your trainees with respect to how to safely position the patrol car in conducting a felony stop of a pedestrian?

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A I don't understand what you're saying. It's very broad.

Q I'm curious. And respectfully we have all day.

MR. BRENTE: No, you don't. You have half a day and you're not curious.

BY MR. CASILLAS:

Q And my point is, do you tell them, other than, hey, look, cover is important? We know you tell them that. Do you tell them anything else? It's a yes or no question.

A Yes.

Q What else do you tell them?

A I already told you everything. It's a very broad spectrum, the positioning. It -- it -- it -- ideally, it will depend on the suspect's actions.

Q Do you tell them that?

A Yes.

Q I'm assuming that at some point in your career you had some sort of training as to tactical driving. Yes?

MR. BRENTE: I object it assumes facts not in evidence, lacks foundation.

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But you can answer if you understand.
THE WITNESS: I don't understand. No, I never...
BY MR. CASILLAS:
Q Let me rephrase it in a very basic way that you might understand.
Did the LAPD ever instruct you how to operate safely a patrol car?
A Yes.
Q Okay. And when did they do that?
A In the academy.
Q Okay. With respect to -- and what was the nature of that training, by the way, if you can remember?
A Well, driving an emergency vehicle operations when you're driving code three, the positioning of vehicles during a felony stop.
Q Anything else?
A I don't recall.
Q Do you understand that as a training officer it would be your responsibility to make sure that your trainees understood how to safely operate a patrol car?
A Yes.
Q Okay. And as part of your duties in

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training trainees, do you cover the safe operation of a patrol car?
A Yes.
Q What items do you cover?
A Code three driving.
Q Anything else?
A Let me see. Code three driving.
MR. BRENTE: And I assume you're excluding what he already testified to about positioning. You're excluding all that, right? You don't want him to repeat it.
MR. CASILLAS: I want to know what are the items that he covers in his training of trainees as to the safe operation of a patrol car.
THE WITNESS: Code three driving, overdriving.
BY MR. CASILLAS:
Q Anything else? Anything else?
A No, that's it for now.
Q Now, I think you told me that one of the things that you relied on in training your trainees was your own experience, right?
A Correct.
Q And I get the impression from what you've told me so far that a lot of the things that you

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learned were kind of on-the-job training.
Is that a fair representation?
A Experience, yes.
Q Okay. So is it true that -- and I'll admit it as to myself, you know, when I train -- try to train some of the lawyers here, I rely on things that I've done bad or wrong, incorrectly rather, and say, look, I had that experience and I screwed it up, don't ever do what I did because that's just not the right approach.
Have you -- do you yourself use your own experience where you were unsuccessful in something to use that as a model for teaching?
MR. BRENTE: So I'm going to object to the extent that it potentially calls for any confidential peace officer personnel record information, officer performance, officer evaluation, officer rating, it's confidential, it's privileged, violates the officer's right to privacy.
And I'll instruct him not to answer.
BY MR. CASILLAS:
Q Okay. And I certainly don't want you to use or tell us about any example where it resulted in you being disciplined.
Do you understand that?

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A Yes.
Q What I'm focusing on are those things that maybe in your own experience the result was not something that you wanted, you know --
MR. BRENTE: Go ahead.
BY MR. CASILLAS:
Q -- for example, you -- you know, you pull somebody over and, you know, you weren't expecting that they were armed, for example, and you maybe, you know, dropped your guard a little and you're like, God, you know what, I'm not going to do that again.
Did you ever have any experiences like that where you relied on your own experience where it was something less than perfect as a training point?
A Yes.
Q Okay. And did you find that in doing that it was an effective way to train?
A Yes.
Q Okay. And why is that?
A You learn from your mistakes.
Q And, you know, certainly would you agree that you share or you tell the trainees that police officers sometimes make mistakes?
A Yes.
MR. CASILLAS: And, Mr. Urrutia, we've been

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going for about a little over an hour. I think it's time for us to take a break.
Is that okay, Counsel?
MR. BRENTE: Sure.
MR. CASILLAS: All right. We'll go off the record.
THE VIDEOGRAPHER: Off the record, 10:31.
(Recess taken.)
THE VIDEOGRAPHER: Back on the record, 10:50.
BY MR. CASILLAS:
Q When you were an academy cadet with the LAPD, I think you told us that during that period you received training as to the safe operation of a patrol car. Yes?
A Yes.
Q And did they emphasize in that training the importance of putting the vehicle in park or otherwise causing it to come to a complete stop before exiting the vehicle to engage in activity?
A I learned the importance of putting a vehicle in park when I first started to learn to drive way before the academy.
Q Yeah. And in learning that, what was the importance of it coming to a complete stop? Why do

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you want to stop the car?
A So you won't collide with anything.
Q You don't injure anybody maybe?
A Correct.
Q Now, did the LAPD also at the academy touch on that subject in any way when they taught you how to safely operate a patrol car?
A When you're going through EVOC, when you're, for example, driving code three or maneuvering the vehicle, from what I learned from driving -- initially driving way before the academy, it's common sense to put it in park.
Q And I appreciate that. And like so many things in life common sense doesn't control, but specifically, did the LAPD in any form, either in writing, verbally while you were training -- excuse me -- while you were learning to operate a patrol car safely tell you that you had to make sure to put the patrol car in park or otherwise secure it safely at a stop?
MR. BRENTE: Okay. So I'm going to object and he won't be able to answer the question as you phrased it because the beginning of your question had some editorialization by yourself which --
MR. CASILLAS: Let me rephrase the question.

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BY MR. CASILLAS:
Q Did the -- did the LAPD instruct you during the training that you received at the academy that before exiting a patrol car, you had to put it in park?
A I learned that when I was -- first started to drive.
Q I appreciate that. I think you've already told me three times.
A Okay.
Q It's a different question and so listen carefully.
Did the LAPD teach you, train, instruct you, or some other way convey to you that before you exited your patrol car, you had to put it in park?
A It's common sense to put a vehicle in park.
Q And I get that. Did the LAPD at least tell you that?
A Well, they didn't tell me that. It's common sense.
Q Okay. And it's important question. So are you saying the LAPD did not tell you that?
A As it relates to telling me put it in park, they did not tell me that.
Q Okay. At FTO school were you instructed as

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part of the training you received as to how to train new trainees that you should tell them, put the car in park?
A At FTO school, no.
Q Okay. Now, would you agree that not putting the patrol car in park in a fluid situation creates safety issues for the police officer?
MR. BRENTE: I'm going to object that's an incomplete hypothetical.
BY MR. CASILLAS:
Q You can answer.
A I would agree.
Q What sort of safety issues would you agree?
A If you don't put a vehicle in park while you're operating it, it can go out of control.
Q Could it cause you to lose your focus? For example, you get of the out patrol car, you forget to put it in park, you're trying to focus on somebody over here, and all of the sudden you got a runaway car. Could it cause you to lose your focus?
MR. BRENTE: Objection; calls for speculation, incomplete hypothetical, lacks foundation.
BY MR. CASILLAS:
Q You can answer.

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A Depending on the situation, if it's a fluid situation. What you are faced with at the time, you're more preoccupied with something if you do not put it in park -- I would say it varies by situation.

Q At the very least it creates a distraction. Would you agree?

MR. BRENTE: Objection; that calls for speculation, lacks foundation, calls for improper opinion.

BY MR. CASILLAS:

Q Again, I'm talking about training. You're a training officer. You want to make sure that you properly prepare the officers for the work they're going to do out in the field.

In your work as a field training officer, have you ever told a deputy that he or she should make sure that the vehicle is in park if they are the operator, so as not to create an unnecessary distraction once they exit the vehicle?

MR. BRENTE: Last time I checked, he doesn't work for the Sheriff's Department.

BY MR. CASILLAS:

Q I'm sorry. Let me rephrase the question.

In your work as a field training officer, have you ever instructed a trainee that he or she

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should make sure the vehicle is in park before they exit the patrol car because failing to do so could create a distraction once they exit the patrol car?

A That trainee should have learned that when they were learning how to drive.

Q I appreciate that. My question is, do you ever tell them that?

A No.

Q Now, I understand that you yourself speaking of prior incidents that you might rely on to train trainees, you yourself at one point had a runaway vehicle, right?

A Yes.

Q And do you ever discuss that with your trainees when you discuss safe driving practices?

A I discuss safe driving practices with them.

Q Okay. Do you ever say something like, hey, look, this may sound silly, but make sure you put it in park because, jeez, at one point in my career I failed to do so? I got out of the patrol car and I had a runaway vehicle.

A I've never had the opportunity to do that.

Q Do you ever warn them of that possibility given that you yourself had had that experience?

A I haven't yet.

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Q Okay. Any particular reason why?

A Just no situation has come up where I had to tell them. It's common sense.

Q Is it because you're embarrassed of that having happened to you and you don't want to share an embarrassing experience with your trainee?

A No.

Q Do you understand that there have been other instances, not only yourself, but other police officers having failed to put it in park and experienced a runaway vehicle?

MR. BRENTE: So I'm going to object that assumes a fact not in evidence, lacks foundation, calls for speculation.

BY MR. CASILLAS:

Q You can answer.

A A situation with an officer has not put it in park?

Q Yeah, an LAPD officer, other than yourself, not having put a vehicle in park and suffered a runaway vehicle as you did.

A Yes.

Q How many other occasions do you know that to have happened?

A Myself and the incident that happened at.

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Q And any others?

A Not that I can recall right now.

Q Were you present here when Ms. Arzate testified it had happened to her?

A I was present, but I don't recall.

Q And is it safe to say, then, that during the FTO training -- let me rephrase it so it's not argumentative.

In the different phases that an FTO officer takes a trainee through is one of the topics that's discussed in phase one safe driving practices?

A Yes.

Q And you yourself have taught to your trainees as an FTO safe driving practices. Yes?

A Yes.

Q And in that topic, what do you cover?

MR. BRENTE: I'm just going to object as asked and answered.

BY MR. CASILLAS:

Q You can answer.

A Again, code three driving, overdriving, that's it.

Q What is overdriving as you understand the term?

A Overdriving is, for example, being

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overconfident.
Q What do you mean by that?
A Just because you're in a black and white doesn't mean that you can go speeding and stuff like that.
Q Is that what you tell the trainees?
A Yeah, I tell them that.
Q When you -- other than telling them what you just expressed, is there any other warning or advice that you give the trainees when discussing overdriving?
A That's it.
Q Do you give them examples of overdriving?
A Yes.
Q Other than the ones you gave us now, do you give them any other examples?
A No.
Q Prior to the Rivera lawsuit, had you previously been a defendant in any lawsuit?
MR. BRENTE: And I'm just going to object. I'm going to instruct him to the extent that it's duty-related, you can answer the question; otherwise, it invades your right to privacy, it's not likely to lead to discovery or relevant or admissible evidence, so I instruct you not to answer.

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So if you've been sued as a result of your duties at the Los Angeles Police Department, please tell him.
THE WITNESS: Yes.
BY MR. CASILLAS:
Q How many occasions?
A One other time.
Q Was that in an OIS I think in 1994?
A No.
Q Okay. What did it relate to, the lawsuit?
A Well, it was dismissed. I believe it was unlawful search.
Q Did you give a deposition in that case?
A No.
Q Earlier when we started we were talking about the materials that you reviewed in preparing for today's deposition. I think you told me that you looked at a video. You saw previous testimony.
Anything else you reviewed?
A That's -- as far as I recall, that's it.
Q And the video itself, was that the video of your body-worn camera as far as you recall?
A Yes.
Q Did you look at the video of Mr. Ramirez's -- did you look at the footage from the

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body-worn camera that Mr. Ramirez was wearing at the time of the shooting of Mr. Rivera?
A It was reviewed with my attorney.
Q Okay. And that was from your body-worn camera. Yes?
A Yes.
MR. BRENTE: Yeah.
BY MR. CASILLAS:
Q Did you also look at the video from Mr. Ramirez's body-worn camera?
A There was video I saw with my attorney.
MR. BRENTE: You can tell him which videos you saw.
THE WITNESS: Yes.
BY MR. CASILLAS:
Q So you saw Ramirez's video, you saw your video.
Anything else?
A I saw Sergeant Hearn's video.
Q Anything else?
A Sergeant Talmage's video.
Q Anything else? Any other video rather?
A That's all I can recall now.
Q Did you read any documents or discuss any documents in preparing for today's deposition?

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MR. BRENTE: Okay. So that's a compound question. But as it relates to anything he discussed, he'll not answer that. He will tell you to the extent he recalls things that he read.
MR. CASILLAS: That's what I'm asking.
MR. BRENTE: Well, I want to make sure we're clear about that.
MR. CASILLAS: Yep.
THE WITNESS: I read my FID testimony transcript.
BY MR. CASILLAS:
Q That was a -- that was a compelled statement, right?
A Yes.
Q They forced you to do that.
A Yes, it was not voluntary.
Q And was it under oath?
A No.
Q Did it have to be for your own purpose?
MR. BRENTE: So I'm going to object that -- that calls for an opinion that he would never know the answer to.
BY MR. CASILLAS:
Q And I'm speaking differently. Let me rephrase the question.

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You understood that the statement you were giving FID -- and for the record, that's the force investigation division. Yes?

A Yes.

Q Okay. And did you understand that it was recorded?

A Yes.

Q Did you understand that it would be part of a homicide investigation?

MR. BRENTE: So I'm going to object as assuming facts not in evidence, lacking foundation.

But you can answer.

THE WITNESS: A homicide investigation.

BY MR. CASILLAS:

Q You killed somebody, right?

MR. BRENTE: So that's argumentative.

BY MR. CASILLAS:

Q Let me rephrase it. You fired four rounds at Mr. Rivera and you eventually learned that he died, correct?

A Yes.

Q Okay. Did you understand that that constituted a homicide?

MR. BRENTE: So I'm going to object it calls for an improper legal opinion or legal conclusion.

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BY MR. CASILLAS:

Q You can answer.

A Technically, yes, it is a homicide.

Q And did you understand that the district attorney's office would be investigating it -- excuse me -- would be reviewing the shooting for possibly pressing charges?

A Yes, I understood.

Q And did you understand that if you were found to have wrongfully killed Mr. Rivera, that you could go to prison?

A Yes, I understand.

Q Before you gave your statement, you spoke to your union lawyer, correct?

A Correct.

Q And as I understand, you spoke to him at least on three occasions before you gave your statement, correct?

A I don't recall.

Q Okay. Did you know that that was also the same lawyer that Mr. Ramirez had?

A No.

Q Now, your statement was given two days after the shooting?

A I don't recall. I think -- I don't recall.

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Q Okay. As a result of having statements regarding possibly having been shot in the Rivera incident, were you disciplined?

MR. BRENTE: So I'm going to object, so that calls for confidential peace officer personnel record information, official information, and violates the officer's right to privacy and instruct him not to answer.

MR. CASILLAS: I propose that we discuss it on a confidential portion of the transcript.

MR. BRENTE: And I appreciate that, but I decline the offer.

BY MR. CASILLAS:

Q Did you listen to any audio-taped statements?

A Can you be more specific?

Q Sure. I understand that there were several statements that were given by various people as part of the investigation that was conducted by FID. For example, your statement, the statement that you gave to FID investigators was recorded. I've listened to it.

Did you listen to that statement before coming here today to give this deposition?

A No.

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Q Okay. Now, the transcript itself of that statement, is that what you read?

A I read the transcript.

Q How many times?

A I don't recall.

Q More than once certainly?

A Yes, more than once.

Q More than five times?

A I don't recall.

Q Well, you read it at least once.

Did you read twice?

A I know I've read it more than once.

Q Okay. So you don't remember if it was two -- if you read it more than once, then you at least read it two times, right?

A Yes.

Q Did you read it three times?

A I don't recall.

Q All right. Now, as I recall it's about 35, 40 pages long.

A I don't know how long it is.

Q Nailed it. 40 pages long.

A Oh, wow.

Q Does that appear to be a copy of the transcript that you read?

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A It looks like it.
MR. CASILLAS: We'll attach this as a confidential exhibit to your deposition, and I want to say it's Exhibit No. 7, but for purposes of things, we're going to label it as Exhibit No. 10. Okay?
(Plaintiffs' Exhibit 10 was marked.)
MR. BRENTE: That's fine.
BY MR. CASILLAS:
Q And given the statement actually when you're there with the -- and by the way, the FID investigators, did you know them? Because you worked IA, right?
A Uh-huh. Yes.
Q Had you met those guys before or any of the guys? I'm including Ms. Arcate.
A No.
Q Did you understand the seriousness of what you were undertaking when you gave the statement to FID?
A Yes.
MR. BRENTE: Objection; vague and ambiguous, argumentative.
BY MR. CASILLAS:
Q Did you understand that you had to be honest

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with them?
A Yes.
Q Did you understand that you had to be truthful in every way with them?
A Yes.
Q Do you know what it means to be forthcoming?
A Yes.
Q What does it mean, as you used the word, to be forthcoming?
A To be open.
Q Not to hide anything, right? Correct?
A Correct.
Q And in other words, you weren't waiting for them to ask the right questions before you would volunteer information, correct?
MR. BRENTE: I'll object that assumes a fact not in evidence. He's answering questions. It's a transcript.
BY MR. CASILLAS:
Q Did you, in fact, answer all of the questions truthfully?
A Yes.
Q Now, when you gave that statement to the personnel from FID, how long had it been since the shooting?

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A Can I look?
Q Yes.
A Three days.
Q And in those three days before you gave the statement to FID, did you know that eventually you were going to have to give a statement?
A Yes.
Q And as a result of that, did you think about what had happened?
A Yes.
Q And did you review in your mind the shooting itself?
A A lot of times.
Q Okay. And did you review all of the circumstances that you remembered that caused you to shoot?
A Yes.
Q How many times did you say you reviewed it in your head a lot of times? How many times, your best estimate?
MR. BRENTE: Don't guess. If you can give him an estimate, give him an estimate. Don't guess.
THE WITNESS: I don't know.
BY MR. CASILLAS:
Q Since the time that you gave the statement

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to FID on June 9th of 2017, have you contacted FID, any of the investigators involved in the investigation to correct any information that you gave during your statement?
MR. BRENTE: So I'm going to object that question assumes a fact not in evidence that he or any other Los Angeles police officer was given an opportunity to review their transcript before the report was finalized, so...
BY MR. CASILLAS:
Q In light of that, have you reached out to FID from the time of the shooting -- from the time you gave the statement until today to correct any part of the statement that you gave on June 9th, 2017?
A Can you be more specific?
Q Did you call them and say, hey, look, I said X, I didn't mean X, I meant Y?
A No, I don't recall doing that.
Q Okay. As you sit here today, is there any part of the statement that you gave that was not accurate?
A There -- one thing off the top --
MR. BRENTE: Is that a yes or a no?
THE WITNESS: Yes.

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MR. BRENTE: Okay. If you want to know, you're going to have to go under seal to get the answer.
MR. CASILLAS: We'll do that in five minutes. I'd ask that we go off the record for personal matter. Yes?
MR. BRENTE: Okay. Let's -- because I'm looking at the time, so -- you and I had a discussion. We've known each other a long time. You know me, so I leave it to your judgment.
MR. CASILLAS: I'm a lucky man.
MR. BRENTE: Yes.
THE VIDEOGRAPHER: This is the end of DVD No. 1. We're going off the record. The time is 11:18.
(Recess taken.)
THE VIDEOGRAPHER: This is the start of DVD No. 2. We're back on the record. The time is 11:58.
MR. CASILLAS: Mr. Urrutia, again, Exhibit 10 there, we're going to have a little conversation about that, and to do that, with your attorney's permission, we're going to go onto a confidential portion of the transcript.
So stipulated?
MR. BRENTE: So stipulated.

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(Whereupon this portion of the transcript is marked confidential.)
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BY MR. CASILLAS:
Q The date of incident June 9th, 2017, what shift were you working?
MR. BRENTE: No, I don't think that's the date of the incident, but maybe I'm just misremembering.
BY MR. CASILLAS:
Q All right. June 6th, do you remember what shift you were working?
A Watch five.
Q What period of time does that cover?
A It should be from 3:00 p.m. to 1:00 a.m.
Q How long had you worked that shift?
A I don't recall.
Q And, again, you were there at Harbor division and you had been there by the time the shooting occurred how long?
A Approximately seven and a half years.
Q And -- at Harbor division?
A Yes.
Q Prior to June 6th, 2017, had you met Officer Ramirez?
A I had seen him.
Q Did you know he was -- had you met him, hello, hey, how are you, good morning, anything like

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that?
A I don't recall.
Q Was there -- do you remember whether or not there was a briefing at the start of that shift?
A Rollcall.
Q And was there anything as you sit here today significant about rollcall, maybe a particular assignment that was pending, some sort of criminal activity afoot, training bulletin, anything that stands out?
A I don't recall.
Q Now, obviously you -- you came to work. Was rollcall at 3:00 o'clock?
A If that was start of watch, which I believe it was, it should have been at 3:00 o'clock.
Q Okay. And did you know that you would be partnered with Officer Ramirez at the time that the briefing started?
A Before that, no.
Q How was it that you learned of your assignment to serve as training officer for Mr. Ramirez?
MR. BRENTE: I'm going to object that assumes a fact not in evidence and completely lacks foundation.

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BY MR. CASILLAS:
Q You can answer.
MR. BRENTE: He can't answer it because you first have to lay that foundation because that question assumes a fact not in evidence.
BY MR. CASILLAS:
Q That day were you Mr. Ramirez's training officer?
A No.
Q And was that the first day you and he were partnered up together?
A Yes.
Q And when did you learn that you would be partnered up with Mr. Ramirez?
A During rollcall.
Q Okay. And what was the nature of the assignment, the watch sergeant said, hey, look, Ramirez, you're with Urrutia?
A Yes, kind of like that.
Q Had you been partnered up with him before?
A No.
Q Okay. Did you know anything about him one way or the other other than he was an LAPD officer and you said hello a few times?
MR. BRENTE: I'm going to object because I

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don't think he testified that he said hello a few times. I don't think that's in the record unless I misheard.
BY MR. CASILLAS:
Q You can answer.
A I stated I had seen him. I never said hello to him.
Q It's not a crucial fact, but other than knowing that he was another LAPD officer, did you know anything about him?
A No.
Q And, again, you had never been partnered up with him before, correct?
A That's correct.
Q Was there a particular geographic area that you were assigned to patrol that day?
A Yes.
Q And what area was that?
A Wilmington.
Q And is that a patrol district of some sort or is it the City of Wilmington?
MR. BRENTE: Objection; vague and ambiguous.
You can answer if you understand the question.
THE WITNESS: It's a section of Harbor

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division.
BY MR. CASILLAS:
Q Geographically what's it include?
A Wilmington.
Q The area that you were patrolling was the Wilmington patrol area. Yes?
MR. BRENTE: I'm going to object that assumes a fact not in evidence it's such a patrol area.
BY MR. CASILLAS:
Q That's what I'm trying to get to.
Were you patrolling Wilmington Avenue [sic]?
A I patrol all of Wilmington.
Q Okay. All of Wilmington consists of what?
A It has, for the most part, boundaries.
Q Right. And what are those boundaries?
A For the north it would have been Lomita, the east Alameda, the south Harry Bridges, and then to the west -- the big major would be Figueroa, but there's still some areas west of Figueroa.
Q Before that day had you met Eric Rivera?
A No.
Q Had you had any contact with Eric Rivera?
A No.
Q Did you know anything about Eric Rivera?

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A No.
Q And before leaving the station, did you check out any equipment?
A Yes.
Q What did you check out?
A We checked out a shotgun, bean bag, I don't recall if we checked out a camera, our vehicle, vehicle keys. That's it as far as I can recall.
Q When you left to start the patrol, were you wearing a belt with equipment on it?
A Yes.
Q And what was the equipment that you carried on your belt?
A I actually carry my firearm, magazines, OC spray, taser, ASP, cuffs, baton ring holder, my keys. That's about it.
Q What type of firearm were you carrying that night?
A A 45-caliber Glock.
Q Was that standard issue? Was that the standard issued sidearm of the LAPD for that period?
A No.
Q Was that a firearm of your own preference?
A It's my preference.
Q Any particular reason?

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A No.
Q Did you buy that firearm?
A Yes.
Q And were you -- at that time had you qualified at the range?
A I've always qualified for the cycles, yes.
Q Never failed to qualify?
A Never.
Q Did you have a backup gun?
A No.
Q Is it your practice not to carry one?
A That's my practice.
Q Were you wearing a body camera?
A Yes.
Q Any other device that you had control of that evening while you were patrolling other than the body-worn camera?
A Yes, I recall now.
Q And what other?
A My DICVS.
Q What is your -- what is that device?
A That device basically controls -- or it's kind of mic and you can use that to turn on the digital in-car videocamera system.
Q Was there a digital camera system in the car

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that you were travelling in before you came into contact with Mr. Eric Rivera?
A Yes.
Q And was it activated that night?
A No.
Q Any particular reason?
A Due to the situation, I could not activate it.
Q And that was a bad question. How is it activated?
A There's -- you can do it -- there's a system inside the vehicle where you could manually turn it on or you can press the button on your little contraption.
Q The control?
A Correct.
Q That camera system is often referred to as a dash cam.
Is that how you refer to it as?
A As a dash cam?
Q Yeah.
A No.
Q Okay. And the device points forward.
A Yes.
Q Have you used it in the past?

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A Yes.
Q Roughly on how many occasions had you actually activated it?
A I don't know.
Q Hundreds probably?
A Possibly.
Q So there's no doubt that you were well-versed in its operation.
Is that a fair statement?
A Yes, that's fair.
Q Did you carry with you any other recording device?
A That and the DVD.
Q Before you started patrolling that evening -- and by the way, I should ask this. Was there an individual that you usually patrolled with prior to June 6th of 2017, a partner, for lack of a better word?
A No.
Q On that shift, were all of the patrol cars that were doing regular patrol two-man cars?
A I don't recall.
Q Had you ever patrolled the Wilmington area in a single-person unit?
A Yes.

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Q And is there any rhythm or reason as far as you know as to when an individual patrols solo or when an individual doubles up in a patrol car?
A Odd man out.
Q What do you mean by that?
A Well, if we have five officers, ideally you want to have two-man cars. If there's five, that means one's out.
Q Was there any sort of conversation that you had with Mr. Ramirez before you started patrol?
MR. BRENTE: Objection; vague and ambiguous, overly broad.
BY MR. CASILLAS:
Q You guys check out your equipment and you're about to leave the parking lot.
Before you do so, do you discuss anything?
A With him?
Q Yes.
A Right before we left?
Q Right.
A I don't recall.
Q And so, again, you've never, as far as you could recall, had him as a partner on patrol, correct?
A Correct.

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Q You knew nothing about him whether or not he was competent to do anything, correct?
MR. BRENTE: I'm going to object to the form of the question.
BY MR. CASILLAS:
Q You didn't know anything about him really, correct?
A Correct.
Q Other than maybe just some general greetings, did you discuss, you know, his kind of familiarity with that patrol area that you were going to cover that night?
A Yes.
Q What was the nature of the conversation as you recall it?
A He told me he grew up there.
Q And was that significant for you in any way?
MR. BRENTE: Objection; vague and ambiguous significant.
BY MR. CASILLAS:
Q Yeah, I mean --
MR. BRENTE: You can answer.
BY MR. CASILLAS:
Q -- you're like -- did you say, oh, that's an interesting fact?

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A He knew the area.
Q And do you recall discussing anything else?
MR. BRENTE: At what point in time?
MR. CASILLAS: Part of the conversation that he was having with him where he learned that Mr. Ramirez grew up in the area.
THE WITNESS: I'm sure we discussed things. I don't recall.
BY MR. CASILLAS:
Q Were you the driver of the patrol car?
A No.
Q How was it decided that you would be the passenger or the -- for lack of a better word, book officer?
A I don't recall.
Q Is there typically a way that that's decided?
A No.
Q Did you check out the car or did he check out the car?
A I don't recall.
Q Before the incident with Mr. Rivera, did you have any conversations with Mr. Ramirez as to who would be a contact officer and who would be a cover officer if you had to make contact with any

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individual?
A I don't recall.
Q Do you know what a cover officer is?
A Yes.
Q What is a cover officer when we speak about a two-man unit?
A A cover officer is we'll provide cover.
Q And what do you mean by that?
A He'll provide cover. He'll -- he will -- let me see how I explain this. For the most part, he will handle the radio communications while the other officer makes contact with the violator or suspect.
Q And in that scenario that you described, what does the contact officer do?
A He will provide -- talk to communications.
Q I'm sorry?
A He will talk to communications. He will basically watch your back in the sense.
Q Again, the cover officer?
A Yes.
Q Okay. Now I want to change now to the contact officer. Okay.
What is the role of the contact officer in the scenario you just described?
A To make --

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MR. BRENTE: I'm going to object. He didn't describe a scenario, but he's generally describing the duties of a contact officer.
Go ahead.
THE WITNESS: To make contact with the suspect.
BY MR. CASILLAS:
Q And did you have any familiarity at all with whether or not Mr. Ramirez was tactically sound in conducting a felony stop?
A At the time I believe he had about eight years on. I figured he would know what to do.
Q And how did you know he had eight years on?
A I recall him telling me.
Q As you were driving around?
A Yeah.
Q So you -- it's safe to say you guys had a general conversation kind of getting to know each other?
MR. BRENTE: Objection; vague and ambiguous, overly broad.
You can answer.
THE WITNESS: We talked.
BY MR. CASILLAS:
Q At some point did you learn that -- strike

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that.
The contact with Mr. Eric Rivera that related in the shooting, was that in response to a communication of some sort, MDT or a radio?
A Radio.
Q And what did you hear or what you do remember hearing rather?
A What I remember hearing was a code three call of a 415 man with a gun.
Q For the record, what is a 415 man with a gun?
A 415 basically generally causing a disturbance, somebody causing a disturbance. You can interpret it like that, and man with a gun.
Q Was that a call that was assigned to you?
A Initially.
Q And when I mean you, I mean your unit. And by the way, what was your unit number or your unit ID?
A Five Adam 24.
Q And was the call, this 415 with a gun assigned to you?
A Initially it was assigned to another unit.
Q Do you remember which unit that is or was?
A I believe it was five Adam 25.

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Q And did you respond to that call?
A Yes.
Q Okay. Initially upon hearing it or was there something in the communications later that triggered you to respond to the call?
A I don't understand.
Q It comes out 415 with a gun. Do you guys roll with it?
MR. BRENTE: It was 415, man with a gun --
MR. CASILLAS: Yes.
MR. BRENTE: -- is what he testified to.
BY MR. CASILLAS:
Q Did you immediately roll to it?
A We assisted.
Q And did you respond somehow through the communication systems that were available to you, MDT or radio?
A Radio.
Q And you called yourself in as an assisting unit?
A Yes.
Q And you obviously as the passenger officer, you were in charge of the communications, yes?
A Yes.
Q And before responding -- well, strike that.

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Do you remember where it was that you were generally when you radioed in that you would be an assisting unit?
A Yes.
Q Where were you?
A Figueroa, south of PCH.
Q So that would have been west of eventually of where the incident occurred?
A Yes.
Q West of --
MR. BRENTE: Are you okay?
THE WITNESS: Yeah. Yes.
BY MR. CASILLAS:
Q Would you like to take a break?
A No, I can go through this.
Q You mentioned it was a code three call.
A Yes.
Q What is a code three call?
A Respond with lights and sirens.
Q As the passenger officer, was it your responsibility to activate the lights and sirens?
A Not in this case.
Q Is it usually that the passenger officer is in charge of activating lights and sirens?
A Usually, no.

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Q In this case did you?
A No.
Q Distancewise from the time that you got the call to eventually where the shooting would occur, how far was it, your best estimate?
A A mile, a little over a mile.
Q And do you recall or can you give me an estimate of the time that it took from the time you got the radio communication regarding the 415 man with a gun until the time you fired your first round, how much time elapsed?
A I don't know.
Q Do you have an estimate?
A I can't recall right now.
Q From the point that you radioed in that you would be responding until the time you got to the location where the shooting would occur, did you have any conversations with Mr. Ramirez as to tactics?
A I don't recall.
Q Given that you had never patrolled with him, would that have been your practice?
A I normally do that.
Q You normally do do that?
A Yes.
Q And normally what do you discuss?

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A Contact, cover.
Q Do you remember if you had any decisions -- if you made any decisions, the two of you, with respect to how that would be handled, who would be contact, who would be cover?
A I don't recall.
Q Eventually did you serve as cover or did you serve as the contact officer?
A It didn't play out like that.
Q What do you mean by that?
A With the incident there was no ideal contact, cover situation. It just played out too fast.
Q Do you remember the lights being activated on your patrol car?
MR. BRENTE: Objection; vague and ambiguous lights.
MR. CASILLAS: The overhead.
MR. BRENTE: So for the record, so this won't be picked up, counsel is making a rotating motion, which I assume he's asking about the red and blue lights on the top of the police car.
BY MR. CASILLAS:
Q Do you remember those lights being activated, in other words, seeing them?

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A They were not.
Q How do you know that?
A Because I know they weren't. I know the ambers were on.
Q Okay. What are the ambers?
A The little yellow lights.
Q And where are those located?
A They're on top.
Q On the light bar?
A They're technically on the light bar, yes.
Q And do they project yellow light forward?
A Backward.
Q How do you know that those were activated?
A I recall -- I recall my partner driving and we were going pretty slow and I recall seeing the little -- the switch on the No. 1, which means the ambers were activated.
Q Did you have a code three designation? In other words, were you -- had you received the authorization to drive lights and sirens code three?
A No.
Q Did you request it?
A No.
Q Is there any reason that you as the communication officer in that patrol car did not request a code three authorization?
A The other unit was going code three.
Q And does that suggest somehow that it was not urgent for you to get there?
A Oh, of course it was urgent, but we were down the street.
Q You were a mile away, correct -- at least, right?
A No. No. No.
Q You weren't a mile away?
A Not from where the shooting happened. Well, from there --
Q Yes.
A -- but from where --
Q Yes.
A -- the supposed suspect was at, that was down the street.
Q I'm not following. You told me earlier that from the point that you received the radio call and assigned yourself to the call to the point where the shoot occurred, the distance was approximately a mile plus, correct?
A Approximately.
Q Okay. And in -- can you -- if you recall, the route that you took, would you describe it?

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MR. BRENTE: The route from when to when?
MR. CASILLAS: From the time he got the radio call and assigned himself to the call until the point where the shooting occurred.
THE WITNESS: Northbound Fig, eastbound PCH, southbound Wilmington.
BY MR. CASILLAS:
Q All right. Were you observing -- as far as you can recall rather, was Mr. Ramirez, the driver officer, observing the speed limits?
MR. BRENTE: I'll just object as vague and ambiguous.
But you can answer.
THE WITNESS: It looked like he was.
BY MR. CASILLAS:
Q And did he at any point -- did you, first of all, activate the siren?
A No.
Q Do you know he if at any point activated the siren, again, from the time you got the call rather until the time of the shooting?
A No.
Q Do you remember going through any red lights?
A I don't remember.

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Q As a training officer, did you discuss the protocols with your trainees as to driving code three?

MR. BRENTE: I'm just going to object asked and answered. I'm just going to instruct him not to answer it again. He talked all about what his practices were, about discussing driving with his probationers, so he's not going to answer that again.

MR. CASILLAS: No, it's a different question. I'm asking him about whether or not he talked about driving code three, period.

MR. BRENTE: He said he talked about driving code three when he had probationers.

BY MR. CASILLAS:

Q In those discussions about code three driving, did you explain to your trainees that you had to observe all red lights unless you were authorized to go code three?

MR. BRENTE: I'm going to object. That question as phrased doesn't even make sense.

BY MR. CASILLAS:

Q You can answer.

A It doesn't make sense.

Q In discussing code three driving, did you instruct your trainees to stop at all red lights?

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A They have to be careful at red lights.

Q Are you familiar with the term clearing an intersection?

A Yes.

Q What does that term mean to you?

A Approach an intersection in a safe manner, look in all directions. Once it's clear, you proceed through the intersection.

Q If you're driving with lights and sirens, you can proceed if there's a red light, correct?

A Correct.

Q At some point do you remember the vehicle going southbound on Wilmington?

MR. BRENTE: Okay. When you say the vehicle, you're talking about the patrol car he was riding in?

MR. CASILLAS: Yes, I am.

THE WITNESS: Yes.

MR. BRENTE: Put your hands down.

BY MR. CASILLAS:

Q As you were travelling southbound on Wilmington, did you receive a communication over the MDT or through the radio that there was a man identified as being in the area possibly carrying a gun?

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A Yes.

Q How did you learn that?

A Through the radio.

Q Do you remember what you heard?

A Male Hispanic.

Q And where was he identified in the radio communication as being, if you recall?

A PCH and Wilmington.

Q And at some point you got to PCH and Wilmington. Yes?

A Yes.

Q Did you stop at the intersection to look for the individual?

A Yes.

Q Did you have a discussion with Mr. Ramirez about the whereabouts of that individual?

A I'm sorry. Go ahead and say that again.

Q You told me that you actually stopped at PCH and Wilmington to look for the suspect. Yes?

A Yes.

Q And when you stopped there and was that maybe in the No. 2 lane westbound PCH?

A Did you say westbound?

Q I'm sorry. I meant eastbound.

A I'm not sure what lane we were eastbound.

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Q Did you -- and you actually stopped at the intersection and looked around?

A We looked around.

Q Did you stop?

A I don't recall if we stopped.

Q Is there any -- do you know why it was that you made that right turn on to Wilmington?

MR. BRENTE: I'm just going to object because he didn't make a right turn.

BY MR. CASILLAS:

Q Do you know why it was that you proceeded southbound on Wilmington?

A Yes.

Q Why is it that you proceeded southbound on Wilmington?

A Because there was information that the man with a gun was headed -- possibly headed towards Anaheim.

Q Which is how many blocks south of PCH on Wilmington?

A I don't know.

Q And after you made that right turn onto Wilmington, did you have any discussions with Mr. Ramirez about any tactics?

MR. BRENTE: I'm going to object this is

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asked and answered.
But you can answer it again.
THE WITNESS: I don't recall.
BY MR. CASILLAS:
Q Had you had dinner that night?
A I don't recall. I don't eat sometimes.
Q In looking at some of the photographs of the patrol car postshooting, I noticed there were some containers in the car.
Were you drinking anything at the time of the incident as it happened?
A I was not drinking anything.
Q No soda?
A No.
Q Had you consumed any Red Bull?
A I don't recall.
Q Do you drink energy drinks such as Red Bull?
A Every once in awhile.
Q Do you do that on patrol?
A Every once in awhile.
Q Any particular reason?
A Tired.
Q Were you tired that evening?
A No.
Q How long had you been on shift by that

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point?
MR. BRENTE: What's that point?
MR. CASILLAS: The point that he turned -- the vehicle turned south on Wilmington.
THE WITNESS: I don't know. Like six hours, I think.
BY MR. CASILLAS:
Q Were you drinking coffee that night?
A I drank coffee earlier.
Q In the vehicle?
A Yes.
Q Had you consumed any alcohol that evening?
A What?
Q Had you consumed any alcohol that evening?
A No.
Q At some point did you see a man on the west side of Wilmington walking his dog?
A No.
Q Did you ever see at any point before you fired any gunshots a man on the west sidewalk of Wilmington walking southbound walking his dog?
A No, I don't recall.
Q As you were moving southbound, were you scanning the environment in front of you looking for the suspect that had been reported?

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A I was looking everywhere.
Q Okay. And what were you doing to look everywhere?
A What do you mean?
Q You said you were looking everywhere and my question is, what were you doing?
A Looking to the front to the sides, looking at the MDT.
Q Was the individual reported on the west side or the east side of the street?
MR. BRENTE: I'll just object assumes facts not in evidence that there was -- either side was notated in the call.
But you can answer.
THE WITNESS: Headed southbound.
BY MR. CASILLAS:
Q And was there any information conveyed to you as to which side of the street he was on?
A I don't recall right now.
MR. CASILLAS: Mr. Urrutia, we have been going for about 40, 45 minutes now. With your permission, can we take a break?
THE WITNESS: Yes.
MR. CASILLAS: Take a break.
THE VIDEOGRAPHER: Off the record, 12:39.

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(Recess taken.)
THE VIDEOGRAPHER: Back on the record, 1:07.
BY MR. CASILLAS:
Q Mr. Urrutia, at any time before you exited your vehicle, did you communicate to Officer Ramirez anything that indicated that you had made contact with a suspect?
MR. BRENTE: Okay. So I just want to object because the record doesn't pick up what counsel is doing. So the words in the transcript will say that, quote, that you had made contact with the suspect, but counsel as he said that pointed to his eye to suggest that he was asking whether or not Officer Urrutia had said anything to his partner to indicate that he had seen the person who later turned out to be Eric Rivera.
BY MR. CASILLAS:
Q Let me rephrase the question because it's really not the gist of my question.
Do you remember as you were driving southbound on Wilmington seeing the person that turned out to be Mr. Rivera for the first time?
A Yes.
Q And do you remember where he was when you first saw him?

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A Yeah, he was by the carport area in front of 1109 Wilmington.
Q Was he walking?
A Yes.
Q Southbound?
A Yes.
Q Could you tell from the first time you saw him whether he had already seen you?
A When I saw him, he was looking at me.
Q Now, I think you've told me you've reviewed the video of the shooting itself. Yes?
A Uh-huh. Yes.
Q And to be very specific, the body-worn camera footage from the camera you were wearing that night, correct?
A Yes.
Q I want to -- I'm not going to talk to you about it, but I want to make sure that I have the same copy that you do. First of all, after that incident, did you turn over your camera to a supervisor?
A Yes.
Q Now, was it the actual camera or was it a data drive of some sort?
A It was the actual camera.

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Q Now, as I understand, the camera is used to download footage, yes?
MR. BRENTE: So I'm going to object that -- that I think is beyond the area of his expertise as it relates to how body-worn video footage is downloaded.
BY MR. CASILLAS:
Q May I? For the sake of foundation, have you ever downloaded footage from a body-worn camera?
A Well, the way -- you put them in ports.
Q Right. And after you saw the -- after you turned over your body-worn camera, were you present when it was downloaded?
A No.
Q At some point after the shooting, you saw the footage from the body-worn camera, correct?
A Yes.
Q Okay. Sometime before you gave a statement, correct?
A Yes.
Q And did that help you in recalling the facts and events of the shooting?
A It helped.
Q And how many times did you review the actual footage of the shooting before you gave your statement?
A I don't recall.
Q Your best estimate?
A I don't -- I don't know.
Q And did you watch the entire footage itself or did you just focus on that portion there related to the shooting itself?
MR. BRENTE: So I'm going to object because when you say the entire footage, he would have no idea what that is. He has no idea what a starting and stopping point is on that body-worn. He only knows what he was shown, so he has no idea, to answer your question, where it starts and where it stops.
BY MR. CASILLAS:
Q I'm -- and by the way, before you gave your statement, you sat down with your attorney and the attorney showed you the footage from your body-worn camera, correct?
A I was shown the footage.
Q On the laptop?
A I don't recall, but I saw it.
Q Did it capture the events related to you being taken by an ambulance away from the scene?
A I don't know.
Q You don't remember seeing that portion of it?
A I don't recall seeing that.
Q I have what I believe to be a copy of the footage that relates to that incident. I'm not going to review it, but rather -- and for the record, I'm -- I have a copy of what was provided to me by the attorneys for the city, and this is footage here. I'll let it play through for a few seconds until it to gets to the portion where maybe we could hear some audio.
First of all, does that look like the footage that you reviewed in getting ready for today's deposition?
A It looks like it.
Q Okay. For the sake of expediency --
MR. BRENTE: Okay. So obviously the body-worn video footage is subject to a protective order, so I want to make sure our record is consistent with the protective order.
So do you want to go under seal while you're asking his questions about his body-worn video? I'm assuming you're not going to have the videographer record it or if you want to, that's fine, as long as that part is under seal as well. I just want to make sure we're being consistent.

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MR. CASILLAS: What I'm doing, Cory, I literally just want to lay the foundation for it. I'm not going to ask him questions about its content. I just want him to confirm that that is his body-worn -- or it's the footage from his body-worn camera literally. I'm not going to ask him any questions about it. So, again, just for the sake of expediency, I'm going to move forward to a point of it that I think will reflect that it is his -- it's the footage from his camera and then I'm going attach it under an exhibit under the protected portion of the transcript.

Fair enough?

MR. BRENTE: Okay. I don't know that he'll know that it's all of it, but for whatever you show him, he'll be able to tell you whether or not he sees -- appears to be from his body-worn camera, that's for sure.

MR. CASILLAS: Are you suggesting that I should show him this entire thing?

MR. BRENTE: No, I just want to make sure that we're not misleading anybody. I mean, he knows what he's seen. Whether or not that's everything that exists in the universe, he has no way of knowing that. He only knows what he's seen.

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So what you have, he can certainly say if that's him. If you want to play him the whole thing and ask him if everything that he's shown on the screen at this time came from his body-worn camera, he can certainly tell you that.

MR. CASILLAS: All right. Do you mind if we go off the record a second?

MR. BRENTE: I don't at all mind.

THE VIDEOGRAPHER: Off the record, 1:16.

(Discussion held off the record.)

THE VIDEOGRAPHER: Back on the record, 1:18.

BY MR. CASILLAS:

Q Mr. Urrutia, in preparing for today's deposition I understand you watched some footage. That may have been your footage from your body-worn camera the -- related to the incident; is that correct?

A I seen it.

MR. CASILLAS: And what I want to do -- I have what I believe to be that footage and I just want to confirm that it is your footage and we will identify it as the next exhibit in order here, which is going to be Exhibit No. 11, and the court reporter is going to be provided a copy of that and it's going to be a confidential exhibit.

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(Plaintiffs' Exhibit 11 was marked.)

BY MR. CASILLAS:

Q Anyway, in the video that you watched --

MR. CASILLAS: You know what, for sake of brevity here, do you mind if we go to confidential?

MR. BRENTE: I don't mind at all.

(Whereupon this starts a confidential portion of the transcript.)

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BY MR. CASILLAS:

Q Now, before we talked about the video -- before we talked about the video, I think we were at the point in the encounter where you first saw Mr. Rivera there on the west sidewalk.

What was he doing?

A He was walking southbound.

Q Was he facing south?

A Initially he was.

Q From the time that you -- did you see him stop, by the way?

A Yes.

Q Okay. And from the time that you first saw him until the time he stopped, can you give me your best estimate as to either how many steps he took or the distance that he traveled?

A I can't give you an estimate on that.

Q Was it more than ten feet?

A I don't know.

Q Do you have an estimate?

MR. BRENTE: I'm going to object. I think he said he couldn't give you one.

THE WITNESS: I don't have one.

BY MR. CASILLAS:

Q Do you remember the patrol car actually

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coming to a stop --
A Yes.
Q -- before you got out? Yes?
A Before I got out?
Q Yes.
A It seemed like it stopped.
Q And did it eventually at any time when you were outside of the vehicle appear to you that the vehicle had come to a stop?
MR. BRENTE: When he was outside?
MR. CASILLAS: Yes.
THE WITNESS: It eventually did come to a stop.
BY MR. CASILLAS:
Q Certainly. That's the time it hit the wrought iron fence or grate, correct?
A Correct.
Q Before that, once you get out of the vehicle and while you were still in contact with the vehicle or in its immediate vicinity, do you sense through either seeing, hearing, or otherwise feeling that the vehicle had come to a stop?
A I know it came to a stop. I don't understand your question.
Q You get out of the vehicle eventually after

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observing Mr. Rivera, correct?
A Correct.
Q And before you shoot your first round, does the vehicle come to a stop?
MR. BRENTE: He's asking what your perception was.
THE WITNESS: It seemed like it came to a stop.
BY MR. CASILLAS:
Q Okay. And what was -- did you feel it? Did you have your hand on the roof? What gave you the impression that it stopped?
A I positioned myself by the door handle. By the door and I was in a modified weave or stance.
Q By the way, you shot at Mr. Rivera. I think you told us you shot four rounds at him, correct?
A Correct.
Q And your -- and your testimony I think or the statements to the FID detectives was that you feared for your life, correct?
MR. BRENTE: Well, you can't ask him about his FID statement without being under seal, so I think you probably want to find another way around it unless you want to go under seal.
BY MR. CASILLAS:

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Q Did you shoot at Mr. Rivera because you feared for your life?
A Yes.
Q And as you sit here today, do you have a good recollection of the things that he either said or did that gave you a fear that he was going to hurt you somehow?
A Yes.
Q Okay. And as you sit here today, do you believe you have a strong recollection of his actions that caused you to use deadly force?
A Yes.
Q And those actions that caused you to use deadly force, have you run through them in your mind several times before today?
A Yes.
Q Before you get out of your vehicle, do you hear -- and I'm taking you back to the encounter with Mr. Rivera. Before you get out of your vehicle, do you remember him saying anything?
A Yes.
Q And what do you remember him saying first?
A He said, what's up? Yelling, what's up?
Q And when he said that, were you parallel to him? In other words, as you looked to your right,

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was he directly west or near west of you?
A He was west of me. I remember that.
Q And by the way, at any time as you -- during the encounter with Mr. Rivera before you got out of the vehicle, was he ever directly west of you?
MR. BRENTE: So I'll just object as vague and ambiguous.
But you can answer if you understand.
THE WITNESS: I know he was west of me.
BY MR. CASILLAS:
Q Okay. And I guess what I'm trying to say is, did you ever drive up to him such that you were parallel with him? In other words, as you looked right out, he was directly west of you?
A I remember him seeing to my west.
Q Did you ever get past him, in other words, such that he was behind you to your west?
A I don't recall.
Q And when he said, what's up, was he still walking?
A Yes.
Q And do you remember him saying anything else before he stopped?
A He said, what's up? What the fuck's up?
Q Did he say anything else?

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A I don't recall.
Q At any time before you shot, did he say anything else?
A Before --
Q Before you shot.
A Before I shot? That's what he said, what's up? What the fuck's up?
Q How about after you shot him, did you hear him say anything?
A No.
Q Did you see him move after you shot him?
A It appeared to me he -- to me he fell on his right side and moved his head down like this.
Q So his right side or left side?
A On his right side.
Q And when you first saw him, could you tell what he was wearing?
A It looked like dark clothing.
Q Was he wearing a -- was it a shirt, long-sleeved shirt, short-sleeved shirt, hoodie? Do you remember what it was?
A I remember dark clothing.
Q Could you tell if he was wearing shorts?
A He was not wearing shorts.
Q He was wearing pants?

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A Yes.
Q What is the closest that you got to Mr. Rivera before you left the patrol car? And I'm talking about you personally in space there as you were sitting in the patrol car, that close distance, what was it?
MR. BRENTE: You're asking what he recalls that night when he talked to FID or what he knows now?
BY MR. CASILLAS:
Q Just the closest that you yourself, your best estimate of the distance between you and Mr. Rivera before you got out of the patrol car at its closest?
MR. BRENTE: And my question is the same, what he remembered that night or what he knows now?
BY MR. CASILLAS:
Q I'll take both, if you know both.
A From the time I was inside the car?
Q Yes. When you --
A I don't understand your question.
Q You remember telling me about the observation you made when you first saw him, right?
A Okay.
Q At some point before you got out of the

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car -- and I'm assuming, by the way, that you kept your focus on him?
A Yes.
Q Did you believe he was the suspect?
MR. BRENTE: Well, I'll just object vague as to time.
BY MR. CASILLAS:
Q You can answer.
A Based on the totality of the circumstances, the description, his actions, I believed he was the suspect.
Q Now, the description described the Hispanic man?
A Yes.
Q Could you tell he was Hispanic?
A He looked Hispanic.
Q What about him told you that he was Hispanic?
A His complexion.
Q And was he wearing a hat?
A No, I didn't see a hat.
Q Did he have a shaved head?
A He had short hair.
Q Short as yours?
A No, mine is long.

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Q So you could tell that his hair was shorter than yours. Yes? If I describe it as short, cropped, would you agree it was short, cropped?
A I don't know.
Q So it wasn't like he was shaved to the skin, though, correct?
A I don't know.
Q Was he wearing shoes?
A Yes.
Q Dress shoes, tennis shoes, flip flops?
A I don't know.
Q But you can make out that he was wearing shoes?
A I could tell he was wearing shoes.
Q Could you tell their color?
A It was dark.
Q When you first saw him -- and earlier you told me that in -- I'm sorry. Strike that.
MR. CASILLAS: We're not confidential right now, are we?
MR. BRENTE: I don't remember. I don't think we are.
BY MR. CASILLAS:
Q Okay. When you first -- strike that.
As a training officer, do you instruct your

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trainees to watch a suspect's hands?
A Yes.
Q Why do you tell them that?
A Because the hands will kill you.
Q And you actually tell them that, correct?
A Yes.
Q All right. And have you ever discussed the concept of the sanctity of life with your trainees when discussing deadly force?
A The sanctity as in the preservation?
Q No. Have you ever heard the term sanctity of life or the preciousness of life?
A I've heard that.
Q Okay. Do you have the discussion about the preciousness or sanctity of life with your trainees when discussing deadly force?
A I discuss -- not that -- those terms. The preservation of life.
Q What do you tell them?
A I tell them that when encountering suspects for whatever reason, you just don't go out there, quote, unquote, guns blazing. We -- ideal -- if an ideal situation with a potentially armed suspect, you -- you try to preserve their life, the preservation of life. You try to use your resources,

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possible -- call for redeployment, other assets, other backup.
Q Do you believe human life is precious?
A Of course.
Q And do you tell your trainees that human life is precious?
A Yes. Uh-huh.
Q And in what context?
A Like I said, as in the preservation of life.
Q And to the extent you could best recall when you last had that conversation with a trainee, what did you tell him or her?
A Talk about the preservation of life and what it entails, which I stated already.
Q But as you sit here today, you don't recall what it was that you actually told them, the words that you used?
MR. BRENTE: I think he already told you. It's been asked and answered. It's not relevant either. I mean, but -- and we are running late on time. It's already 1:35, so...
BY MR. CASILLAS:
Q I think you told me that when you first saw Mr. Rivera he was west of you.
Was the patrol car when you first saw him

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pointed south?
MR. BRENTE: So I think he said he was to his west.
BY MR. CASILLAS:
Q Was the patrol car pointed south?
A When I first saw him, it was pointed south.
Q And by the way, southbound Wilmington, two lanes southbound or just one lane?
A I don't recall.
Q Do you remember there being a red pickup truck to your right when you saw Mr. Rivera?
A Yes.
Q And was Mr. Rivera already in front of that pickup truck?
A Yes.
Q Could you give me an estimate as to how far south of the front of that pickup truck he was?
A I don't know. I can't give you an estimate.
Q When you first saw Mr. Rivera, did you look at his hands?
A No, not initially.
Q Why not?
A Because I was -- what initially caught my attention was the yelling and that yelling seemed -- it looked like somebody was mad and my eyes focused.

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Q On what?
A On his face.
Q And you couldn't see his hands from that position?
A I initially focused on his face.
Q Did you see where his hands were? In other words, that he has hands at his side, his arms at his side, were they raised, were they outstretched in any way?
A I focused on his face.
Q And when you focused on his face, was he still moving?
A Yes.
Q And eventually he took a few more steps before he stopped; is that true?
A He eventually stopped.
Q Did you take a few more steps after you made that first observation about his face?
A Yes.
Q And at that point he was somewhere between 15 and 30 feet away from you, correct?
A The distance -- the only distance that's concrete that I can tell you was -- what -- initially I said 15 feet when I fired, but now it's a different number, but -- go ahead.

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Q Right. You said initially 15 and later you were told it was about 30, correct?
A 34.
Q 34.
A Yes.
Q And you have no reason to doubt that I guess; is that true?
A I have no reason to doubt that.
Q At some point do you see something in Mr. Rivera's hands?
A Yes.
Q Which hand?
A His right hand.
Q And what do you see in his hand?
A I saw a handgun.
Q Can you describe it?
A It was light-colored, possible stainless steel.
Q Was it green?
A No.
Q Was it black?
A No.
Q Light-colored, possibly stainless steel.
Could you make out what sort of gun it was, revolver, an automatic, something other than that?

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A It looked like a semi.
Q What gave you the impression that it was a semi?
A I've dealt with semis most of my career. It didn't -- it looked like a semi.
Q Eventually you learned that he was not in the possession of a firearm, correct?
A Yes.
Q And eventually you learned that he had a -- that a toy gun was found at the location, correct?
A Yes.
Q Do you know where that toy gun was found?
MR. BRENTE: So if you know that from something you learned from your lawyers, you can't answer his question and you have to say I can't answer that question. If you know that from some source other than your lawyers, then tell him what you know about the question he asked you.
THE WITNESS: What was your question again?
BY MR. CASILLAS:
Q My question was, other than from your attorneys, did you learn where that toy gun was found?
A I learned it was found underneath the car.
Q Who told you?

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A I don't recall.
Q When was the first time after the shooting that you saw the toy gun?
MR. BRENTE: Okay. So I'm going to object the question is vague. Are you asking him the gun itself, assuming he's ever seen it, a photograph? What are you asking him?
MR. CASILLAS: I'm asking him the actual toy gun that was there at the scene.
MR. BRENTE: The actual gun, he wants to know if you've ever seen the real plastic gun.
THE WITNESS: If I've seen it?
MR. CASILLAS: Yes.
THE WITNESS: In person?
MR. BRENTE: Not in a photograph, but in --
BY MR. CASILLAS:
Q While you were still at the scene, did you see the toy gun underneath the car?
A I was not at the scene during the investigation because I had to go to the hospital.
Q When you first observed Mr. Rivera in the possession of the gun as you've testified, how was he holding it?
A He was holding it at his side like this.
Q Would you stand up and demonstrate how you

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first saw him hold it?
A Like this, kind of like close contact.
MR. BRENTE: The record should reflect the witness was standing. He had his right arm where the upper arm part of his body was essentially touching the side of his body and then he had the arm straight out at essentially a 90-degree angle.
MR. CASILLAS: And by the way, Cory, because the video is actually part of the record, I'm sure we don't have to describe it.
MR. BRENTE: Well, okay. I'll leave that to you.
BY MR. CASILLAS:
Q Anyway, the -- and eventually did -- when he did that, were you still in the car, that motion that you just described?
A No, initially when I saw the gun, I was still in the car.
Q Okay. And, again, your first observation of Mr. Rivera with the toy gun as you've alleged in his right hand, he was standing in the position you just described, correct?
MR. BRENTE: Okay. So he's not going to answer that question because he never saw Mr. Rivera with a toy gun. He testified that to him he saw him

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with a real gun, so he's not going to answer questions that have a reference that he's not testified to.

You can say what he believed to be a gun, that's fine, but he's not going to answer questions that reference a toy gun because he never saw one.

MR. CASILLAS: I don't even know if there -- if he was holding a toy gun between you and me.

MR. BRENTE: He's not going to answer a question like that because that wasn't his perception.

BY MR. CASILLAS:

Q So he had it in his right hand as you described and that was your first observation of him with what you say was a gun, correct?

A He had it in his right hand.

Q And did you ever see him with that -- with his hand -- right hand at his side straight down at any point?

MR. BRENTE: Okay. So the record needs to reflect that counsel has his arm straight towards the ground so that if someone was holding a gun in their right hand, the barrel would be pointed directly to the ground.

BY MR. CASILLAS:

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Q Did you ever see Mr. Rivera in that position?

A No.

Q Did you ever look to see what was in his left hand?

A No.

Q During the entire incident with Mr. Rivera, did you ever see him in the possession of anything in his left hand?

A No.

Q Before you get out of the patrol car, do you see Mr. Rivera move his right hand in any way?

A Yes.

Q What do you --

A Wait.

Q I'm sorry?

A Do I see him move his hand?

Q His right hand in any way after you make that first observation that you described.

A I recall him pointing that handgun at me and my partner.

Q Okay. Do you remember how he did that?

A Like I showed you, he did left -- left to right motion.

Q Can you stand up and demonstrate what you remember him doing and describe that motion.

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A Moving it left, pointing at myself and my partner.

Q And how many times did he do that?

A I don't know. I saw -- I saw a handgun; that's all I remember. I remember seeing a handgun pointed at my partner and I.

Q So you didn't see it move?

A Yeah, it was moving.

Q At least once across the plane or twice or three times, do you remember?

A I don't recall that.

Q Did he ever lower it before you shot?

A No.

Q Did you ever see anything that appeared to be green?

A No.

Q I have what I believe to be the -- a replica of the toy gun that was found underneath the patrol car.

Have you seen photographs of it before?

A I've seen pictures.

Q Okay. Does this appear to be a picture -- does this appear to be the water pistol that was depicted in the photographs that you saw?

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MR. BRENTE: The, or similar to?

MR. CASILLAS: Similar to. It's certainly not it.

BY MR. CASILLAS:

Q Did it appear to look like this?

A What I seen on TV?

Q In the photographs of the toy gun that was found at the location.

A I didn't even take a good look at it.

Q I want to make sure I understand that answer.

At some point you were shown the photograph of the toy gun that was found at the location, correct?

A I've seen it.

Q Is that a yes?

A I've seen the -- I've seen the photograph.

Q And does this toy gun appear to be what was depicted in those photographs?

A I can't tell.

MR. BRENTE: Or similar to it.

THE WITNESS: Similar.

BY MR. CASILLAS:

Q After seeing what you've told us was semi-automatic firearm in Mr. Rivera's right hand,

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did you say anything to Mr. Ramirez?
A Who?
Q Mr. Ramirez.
A I said, oh, shit, partner, gun, something to that effect.
Q Had you been talking about Mr. Rivera and saying, hey, that's him, and is that the guy, is that the guy?
MR. BRENTE: I guess I'm going to object to form of the question.
Do you understand that question?
THE WITNESS: No.
MR. BRENTE: Okay. Me either.
BY MR. CASILLAS:
Q At some point as you were driving south on Wilmington, did you ever say anything to Mr. Ramirez questioning whether the individual you saw in the sidewalk was the suspect of the call?
A I said, oh, shit, partner, gun.
Q Is that the first thing you said with respect to Mr. Rivera to Mr. Ramirez?
A As it relates to that incident, the brief incident, I recall saying, oh, shit, partner, gun.
Q That's the only thing you remember saying, correct?

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MR. BRENTE: Well, okay. Up to that point in time you're asking him about?
MR. CASILLAS: Yes. Yes.
THE WITNESS: At that point I said, oh, shit, partner, gun.
BY MR. CASILLAS:
Q To make sure, from the time you turned right onto Wilmington from PCH until the time of the shooting, the only thing that you said to Mr. Ramirez regarding Mr. Rivera was what you just told me, correct?
A I said, oh, shit, partner, gun, and then I said some other thing.
Q Do you remember what that was?
A Drop the gun.
Q How many times did you yell that out?
A Once.
Q And did you yell it out?
A Yes.
Q Okay. When you exited your patrol car or the patrol car, had Mr. Rivera come to a stop?
A Yes.
Q Was he facing you?
A Yes.
Q Were the headlights from the patrol car on?

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A The headlights, yes.
Q Were the high beams on?
A No, not that I know of.
Q Do you know if the spotlight was used that night by you or by Mr. Ramirez?
A It was not.
Q How do you know that?
A I know that I didn't turn it on.
Q Did the headlights as far as you could tell illuminate Mr. Rivera?
MR. BRENTE: I'll just object as vague and ambiguous. Do you mean strike him directly or light up the area? What are you asking him?
MR. CASILLAS: Again, Cory, I really don't appreciate you coaching him.
MR. BRENTE: Well, your question --
MR. CASILLAS: The objection is vague and ambiguous, just say it's vague and ambiguous. If he doesn't understand the question, he's a big boy. He'll tell me.
Fair enough?
MR. BRENTE: Well, that's what he's paying me for.
MR. CASILLAS: He's not paying you.
MR. BRENTE: He is paying me.

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MR. CASILLAS: The upshot of it is, I really don't appreciate you coaching him. I asked that you refrain and that's my second time I've asked you do that. And I'll let the record reflect that that last example was, again, textbook coaching.
MR. BRENTE: And I would appreciate it if you would ask specific questions that are clear about what you're asking.
BY MR. CASILLAS:
Q Okay. Are you familiar with the term illumination?
A Yes.
Q Okay. What does it mean to you?
A To shine upon.
Q Did -- was Mr. Rivera illuminated by the headlights of the patrol car at any time that you saw him?
A I don't recall.
Q Do you remember that at the time that you shot, Mr. Ramirez had already turned the vehicle slightly to the right?
A Yes.
Q Okay. And did you feel while you were traveling in the patrol car, in fact, the vehicle move slightly to the right and forward?

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MR. BRENTE: Okay. So I'm just going to object vague as to time. What -- is this before he gets out of the car?
MR. CASILLAS: Yes.
THE WITNESS: Repeat the question.
BY MR. CASILLAS:
Q Before you get out of the car, do you feel the vehicle move forward and slightly to the right before you get out?
A I don't recall.
Q When you got out of the car, was the patrol car pointed in the direction of Mr. Rivera?
MR. BRENTE: I'll object as vague and ambiguous.
But you can answer.
THE WITNESS: It looked like it was.
BY MR. CASILLAS:
Q And what told you that?
A Well, it wasn't facing southbound anymore.
Q It was -- it was facing or pointed in the general direction where Mr. Rivera was standing, correct?
A Correct.
Q Now, that night did you ever convey to Mr. Ramirez any information that suggested or that

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you wanted to suggest that the headlights weren't working?
MR. BRENTE: To Mr. Rivera?
MR. CASILLAS: To Mr. Ramirez.
MR. BRENTE: That's a different question.
BY MR. CASILLAS:
Q As far as you knew, the lights worked, right, the headlights?
A As far as I knew, yeah.
Q Did the front of the patrol car have parking lights of any sort?
A Parking lights?
Q Other than the headlights, any other lights that illuminated forward?
A Well, it's got the little yellow lights.
Q Were those off?
MR. BRENTE: Are you talking about the parking lamps?
MR. CASILLAS: Yes.
THE WITNESS: The parking lamps?
MR. BRENTE: Right. The yellow lights, that's what he's asking about, when the headlights are on.
THE WITNESS: It has those.
BY MR. CASILLAS:

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Q Do you know if those were on?
A Well, when you turn on the headlights, those all go on.
Q As you were driving down the road before you make -- before you first saw Mr. Rivera, did you notice that the streetlights on the west side of Wilmington were on?
A I saw some streetlights.
Q Did you see some streetlights that were on?
A Yes.
Q Do you remember there being a streetlight nearby the location of the shooting?
MR. BRENTE: I'll object as vague and ambiguous nearby.
But you can answer.
THE WITNESS: No.
BY MR. CASILLAS:
Q Do you know the term backlit?
A Yes.
Q What does that mean?
A If I'm not mistaken, something that's lit from behind.
Q And in terms of being able to perceive things, is being backlit a problem?
MR. BRENTE: I'm going to object that calls

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for speculation, lacks foundation, it's an incomplete hypothetical, calls for an expert opinion on lighting and optics.
BY MR. CASILLAS:
Q You can answer.
A What exactly do you want to know about backlit?
Q Have you ever experienced the suspect being backlit?
MR. BRENTE: So same objections that I made with the previous question.
You can answer.
THE WITNESS: Yes.
BY MR. CASILLAS:
Q Was Mr. Rivera backlit?
A I don't recall.
Q Now, I think earlier you told me that he had like -- or maybe you told the FID investigators, but that he had an angry, crazed looked on his face; is that accurate?
MR. BRENTE: I'm going to object that misstates the testimony. He never used the word crazed.
BY MR. CASILLAS:
Q Did you see the expression on his face?

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A Yes.
Q Describe it.
A Angry.
Q How could you tell?
A I could see it.
Q What could you see?
A I could see his expression.
Q Is it a scowl?
A He looked angry. He looked determined.
Q Well, those are words. Those are not -- I don't know what determined looks like frankly. Could you --
A Picture angry.
Q Can you demonstrate?
A I can't demonstrate.
Q So as you sit here today, other than saying he looked determined, you can't describe what his expression was?
MR. BRENTE: Hang on. So he said he looked angry and determined.
MR. CASILLAS: Right.
MR. BRENTE: That's what he testified to.
THE WITNESS: Based on the totality of the circumstances, that's what went through my mind and what I saw.

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BY MR. CASILLAS:
Q And that's what I want to focus on. Okay. Because if you don't remember, it's okay to tell me you don't remember. Do you understand that?
A Yes.
Q All right. What was it in his face that he did that told you that he was determined?
A Well, you go with the totality of the circumstances.
Q I don't want the totality. I want --
A Well, that's how I can explain it.
MR. BRENTE: You can explain it any way you want.
BY MR. CASILLAS:
Q What was the -- you were talking about the appearance on his face.
A Okay.
Q What was the appearance on his face that told you he was determined?
MR. BRENTE: What gave you that impression?
THE WITNESS: That he was angry, the fact -- just the totality of the circumstances, the fact that the call comes out that there's a 415 man with a gun, headed on Wilmington --

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BY MR. CASILLAS:
Q What does -- are you saying that Mr. Rivera knew that there was a call out there?
MR. BRENTE: Hang on a second, Counsel.
MR. CASILLAS: No. You know --
MR. BRENTE: You can't interrupt his answer.
MR. CASILLAS: I can interrupt his answer.
MR. BRENTE: You can't. Well, then -- you can't. You know you can't.
MR. CASILLAS: It's a silly answer, but here's my question.
MR. BRENTE: That's not appropriate either.
MR. CASILLAS: I'll object that it's nonresponsive.
MR. BRENTE: That's not right either. If you don't like his answer --
MR. CASILLAS: I do like his answer. I love his answer.
MR. BRENTE: Then let him give his answer. If you want to ask a follow-up, go ahead.
MR. CASILLAS: Okay. I'll do that.
BY MR. CASILLAS:
Q So my question, again, what was it about his face that told you he was angry?
A He looked angry.

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Q Describe how he looked.
MR. BRENTE: He just did. You know, some terms are common sense terms. If you don't know what someone angry looks like, I don't know. I know you've been around a long time, so have I. I kind of know what these terms are.
MR. CASILLAS: And, again, Cory, that is three times now.
MR. BRENTE: No, it's not.
MR. CASILLAS: You're coaching. You're coaching. All right.
MR. BRENTE: I'm not coaching.
MR. CASILLAS: And if you do it again, I'm going to suspend the proceedings.
MR. BRENTE: Go ahead. Angry, we all know what that is.
MR. CASILLAS: No, we don't know, Cory.
MR. BRENTE: Yes, we do. These are common terms.
MR. CASILLAS: Because, you know, respectfully, I don't believe that he saw that, okay, and I'm entitled to cross-examine him as to what his observations were.
MR. BRENTE: And he's told you.
MR. CASILLAS: He said --

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MR. BRENTE: He's not going to be able to say, well, his lip was here, his nose was there, his eye was here. People -- nobody remembers that.
MR. CASILLAS: Why can't he say that.
MR. BRENTE: Who -- people look at a face and they have an opinion as to what that person looks like. They look angry. They look happy. They look sad. These are things we experience in life.
BY MR. CASILLAS:
Q Was there anything in particular about his face in the way he looked at you that told you he was angry?
A He looked angry.
Q And as you sit here today, you can't describe his actual facial expression other than it was angry, correct?
A He looked angry, determined.
Q Now, we don't want to get to determined yet.
A Okay.
Q Okay. First is there anything about his expression as you remember it that told you he was angry?
A He looked angry.
Q Now, with respect to determined, what was it about his appearance -- facial expression that told

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you he was determined?
A His facial expression coupled with what he said, his advancing on my partner and I with a handgun, he looked determined.
Q Did he step toward you?
A He walked towards us.
Q How many steps did he take?
A I don't know. I saw him walking with a handgun.
Q Do you remember telling the -- the FID investigators that he stepped toward you?
MR. BRENTE: So we're -- I don't mind you asking, but whatever he told FID is under seal.
MR. CASILLAS: That's fine. We'll go under seal.
(Whereupon this portion of the transcript is confidential.)
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BY MR. CASILLAS:
Q All right. As he took steps toward you, did you see him motion in any way with his right hand?
A He pointed the handgun.
Q At you?
A Yes.
Q Did he continue to fan it across his body as you described earlier?
A I recall him moving it to a left to right motion, but I recall him advancing with a handgun on my partner and I.
Q Again, you specifically recall him taking several steps, correct?
A I knew he took some steps.
Q Are these observations that you made all before you got out of the patrol car?
MR. BRENTE: Okay. So that -- that -- that -- there's no way he's going to answer that question. There's no way he's going to answer that, all these observations. We've been in depo for how many hours, so you're going to have ask him a more narrowed question.
BY MR. CASILLAS:
Q The observations that you made with respect to the fanning motion with his right hand, were these

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observations up to the point that you've described him where he is taking steps towards you? Were these observations made by you while you were still in the patrol car?
MR. BRENTE: I'm going to object as compound.
You can -- I don't even understand that question, but you can answer if you understand it.
THE WITNESS: I don't understand it.
BY MR. CASILLAS:
Q Okay. Do you remember seeing him step toward you while you were still inside the patrol car?
A I remember him seeing step towards me with a handgun advancing towards me; that's what I remember.
Q While you were still in the patrol car?
A I remember seeing him advancing towards me with a handgun; that's what I remember.
Q Mr. Urrutia, if you don't remember, honestly, tell me you don't remember.
MR. BRENTE: Hang on. Hang on.
BY MR. CASILLAS:
Q My feelings aren't going to be hurt. Trust me. My question is this --
MR. BRENTE: Hang on. Maybe it's time for a

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break.
MR. CASILLAS: It's not time for a break.
BY MR. CASILLAS:
Q Before you go out of the patrol car, do you remember him taking steps towards you? Yes or no?
A He took the steps towards me when I was out of the patrol car.
Q And did he take those steps toward you before you issued the commands?
MR. BRENTE: Which command are you talking about?
MR. CASILLAS: Whatever commands he issued.
MR. BRENTE: Well, okay, so commands that aren't in the record, I don't know what that means.
MR. CASILLAS: Actually, he did say he made commands.
MR. BRENTE: He said he made a command.
BY MR. CASILLAS:
Q Did you make commands?
A I made one command.
Q And the command was?
A Drop the gun.
Q And were you still in the patrol car when you made the command?
A No, I was out.

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MR. BRENTE: When you reach a point, I need a rest room break.
MR. CASILLAS: Okay. We'll go off the record.
THE VIDEOGRAPHER: This is the end of DVD No. 2. We're going off the record. The time is 2:04.
(Recess taken.)
THE VIDEOGRAPHER: This is the start of DVD No. 3. We are back on the record. The time is 2:10.
BY MR. CASILLAS:
Q Do you remember exiting the patrol car?
A Yes.
Q And just for the record, before you shot Mr. Rivera, do you remember exiting the patrol car?
A I was -- I was outside the patrol car when I fired.
Q And do you remember getting out?
A Yes.
Q And when you got out of the vehicle, was Mr. Rivera still moving in the direction toward you?
A When I got out?
Q Yes.
A At one point he moved towards the vehicle with the handgun.

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Q Now, this is -- you told me about what he did before, but as you get out of the patrol car, I guess my question is, is he still moving toward you?
MR. BRENTE: Well, because that question assumes a fact not in evidence. He never -- that just -- there's no foundation for that question.
MR. CASILLAS: Then let me rephrase the question.
BY MR. CASILLAS:
Q When you get out of the patrol car, your first observation of Mr. Rivera once you're out of the patrol car, is Mr. Rivera moving toward you?
A My first observation?
Q Once you got out of the patrol car.
A Once I got out of the patrol car, he was advancing toward me and my partner.
Q How was he -- his right hand positioned?
A Close contact like I demonstrated earlier.
Q Can you demonstrate that again and --
MR. BRENTE: No, he's not. He's not.
MR. CASILLAS: No, this is at the point when you first saw him outside the patrol car.
MR. BRENTE: He's already done it.
MR. CASILLAS: At different point in time.
MR. BRENTE: Come on. It's already 2:12.

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MR. CASILLAS: You're not going to have him demonstrate --
MR. BRENTE: No.
MR. CASILLAS: -- his movement before he shot him?
MR. BRENTE: He's already demonstrated how he was holding the gun.
MR. CASILLAS: He didn't. He demonstrated how he held it when he first saw him.
MR. BRENTE: Okay. That's not when he -- no. So he's already demonstrated it. He's already demonstrated it.
MR. CASILLAS: You're instructing him not to demonstrate where he held the gun immediately before he shot him?
MR. BRENTE: He can tell you what his perception was.
BY MR. CASILLAS:
Q When you shot Mr. Rivera, do you remember where his right hand was?
A It was at his side like this.
Q Okay. And so start to finish, he never moved his right hand from that position from the time you first saw him when he turned around until the time you shot, correct?

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A From start to finish?
Q Yes.
A At one point, like I stated earlier, he moved to the left to right motion.
Q Right. Other than that, he kept this -- his right hand at his side in that 90-degree type fashion?
A Pointing the firearm, the handgun at my partner and I, yes.
Q What you're testifying was a handgun, right?
A That's what it looked like to me.
Q Anyway, when you shot at him, did you shoot at center of mass?
A I fired at a threat.
Q Okay. Are you hard of hearing?
MR. BRENTE: Okay. Stop.
THE WITNESS: Wow.
MR. BRENTE: We don't want -- hang on a second.
MR. CASILLAS: Look, Cory, I'm asking him and he said something else. I just want to make sure he can hear my question.
MR. BRENTE: If you want to end it, we can end it.
MR. CASILLAS: We can end it. I warned you

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about ending it, too.
MR. BRENTE: So you --
BY MR. CASILLAS:
Q Here's my question. My question is this, okay, when -- you've been trained to shoot at center of mass, correct?
A That's -- well, when we go to the range.
Q Okay. What is center of mass?
A Center of mass is the center.
Q Center of his chest, would you agree?
A Yes.
Q At the time that you shot at Mr. Rivera, his chest was facing you, correct?
A He was facing me.
Q Okay. And before you fired, did you look down the barrel of your firearm through the sights?
A Yes.
Q Okay. Some people call that aiming. Were you aiming?
A I pointed my firearm at the threat.
Q And when you looked down the barrel of your gun, were you looking at the front part of his body?
A I was looking at the threat.
Q What did you see?
A Well, I saw a handgun.

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Q So were you shooting at the handgun?
A I was shooting at the threat.
Q I don't understand what you mean by that.
A You're asking me if I was shooting at the handgun?
Q Yes.
A I was shooting at the threat. I wanted to stop the threat.
Q What was the threat? What was threatening about what you saw there?
A A man pointing a handgun.
Q So you were shooting at the man. Yes?
A I was shooting the threat.
Q Okay. And yes or no question, were you aiming?
A I aimed at the threat.
Q And the threat is the man, yes?
A Well, a gun is not going to pull the trigger by itself.
Q Neither is a squirt gun.
MR. BRENTE: Okay. Don't -- let's -- it's all --
MR. CASILLAS: He's being argumentative. Cory, I'm being argumentative. It's tit for tat. It's just tit for tat.

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MR. BRENTE: We're trying to get through this.
MR. CASILLAS: I'm trying to get through this.
MR. BRENTE: I'm trying to get through it, too.
MR. CASILLAS: I'm going to be a smart-aleck if he's going to be a smart-aleck.
MR. BRENTE: Well, then we're all going to have to get into it because --
MR. CASILLAS: I don't care. That doesn't bother me and I know it doesn't bother you.
MR. BRENTE: And he's not being a smart-aleck, so that may be your perception --
MR. CASILLAS: That is truly my perception.
MR. BRENTE: Well, I'm sorry you have that perception.
MR. CASILLAS: And I'm glad that we have it on video because I think the jury will agree he's being smart-aleck.
MR. BRENTE: I think they'll see he's very sincere. That's what I think they'll see, that he's very sincere.
MR. CASILLAS: Yeah, I'm sure they will come to that conclusion.

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BY MR. CASILLAS:
Q Anyway, before you fired the first round, do you hear other gunshots?
A I heard gunshots.
Q Before you fired your first round, yes?
A Yes.
Q And do you know if that was a gunshot fired by Mr. Ramirez?
MR. BRENTE: Okay. So I'm objecting vague as to time. Are you asking what he knows now or what his perception was at the time?
MR. CASILLAS: I don't want to know what he knows now.
MR. BRENTE: We can just stop the whole thing. So when you ask questions, you need to be precise. Are you asking him what his perception was that night or what he knows now? Those are two different questions.
MR. CASILLAS: Cory, I'm just -- I'm walking him through what happened that night.
MR. BRENTE: I'm not interested in that.
MR. CASILLAS: Cory, I'm just telling you what I'm doing here. You're asking what I'm doing. I'm walking him through what his perceptions were --
MR. BRENTE: Okay.

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MR. CASILLAS: -- that night.
MR. BRENTE: All right.
MR. CASILLAS: And if there's anything different, I'll point it out.
Okay?
MR. BRENTE: Well, unfortunately, these get used question by trial as you well know, so --
MR. CASILLAS: They will.
MR. BRENTE: Well, believe me, they will, so that's why I want to make sure the record is clear.
BY MR. CASILLAS:
Q Before you fire your first round at Mr. Rivera, so the record is clear here, do you hear another gunshot?
A I heard a gunshot.
Q And did you -- do you know what a muzzle flash is?
A Yes.
Q What is a muzzle flash?
A A muzzle flash is when a round is fired, the light that's emitted from the front of the gun.
Q Did you ever see a -- and by the way, from the time you got out of your patrol car until the time you fired your last round at Mr. Rivera, did you ever take your eye off of him?

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A No.
Q And as you were looking at him before you fired your first round, did you see a muzzle flash coming from Mr. Rivera or anything he was holding as you perceived?
A No.
Q Did you see any muzzle flashes to your left?
A No.
Q Was there something that Mr. Rivera did that caused you to first -- to shoot your first round?
MR. BRENTE: So I'm going to -- this has been asked and answered. How many times has he told you that?
MR. CASILLAS: Jiminy Christmas, Cory.
MR. BRENTE: How many times has he told you that? The guy was pointing a gun at him and his partner. It's probably 15 times in the record.
BY MR. CASILLAS:
Q You issued a command, correct?
A Yes.
Q Did you perceive that Mr. Rivera heard it?
A I yelled it.
Q Okay. My question is, did you perceive that he heard it?
A Yes.

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Q How could you tell he heard it?
A I yelled it.
Q The question is, did he do anything to suggest to you --
A I would assume he did, he heard it.
Q So assume that he heard it.
A Yes.
Q Did he respond?
A No.
Q Did you give him the opportunity to respond?
A I had no time.
Q That's not my question. My question is, did you give him the opportunity to respond?
A The threat was eminent. He already had a gun pointed. I was in fear for my life. In that situation, I don't even have to. When somebody is already pointing a gun at me, there was eminent threat. There was no time.
Q Yes or no question. Did you give him the opportunity to respond to your command before you fired?
A I had no time.
MR. BRENTE: I object. He doesn't have to give you a yes or no answer even though that's what you want. He can answer the question any way he

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pleases.
MR. CASILLAS: That's true and he has.
BY MR. CASILLAS:
Q So you come out, you issue a command, and you shoot right away, correct?
A I come out. I see a handgun pointed at me. I see a suspect advancing with a handgun. I stop the threat.
Q And you missed the part about the command. You issued a command?
A Yes, I said, drop the gun.
Q And you shot immediately afterwards, correct?
A I saw a handgun pointed at me. I was going to stop the threat.
Q Yes, and I appreciate that. Okay. And I think you've told me that at least five, six times.
My question is, okay, did you shoot immediately after you issued the command?
A I shot after I issued the command.
Q Did you see -- and was he facing you, again, the plane of his body being parallel to you when you shot all of your shots?
A I recall him facing me.
Q Okay. And was the -- is it your testimony

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that the thing he had in his right hand, what you believe to be a firearm, was pointed at you when you shot?
A It was pointed -- it was pointed -- at the last time it was pointed at me, but he had gone like this, like I said, left to right.
Q So -- so he continued to fan it that way when you were shooting.
A I remember him doing -- going left to right motion pointing at me and pointing it at my partner.
Q And you shot?
A Yes.
Q As he was fanning, correct?
A No.
Q What I'm trying to pin down is where in this fanning motion, if you remember, he was when you shot your first round.
MR. BRENTE: So he never said he was fanning when he shot.
MR. CASILLAS: Well, I'm trying to determine that, Counsel.
MR. BRENTE: Well, maybe you should review the transcript because you've covered this and he's answered it.
BY MR. CASILLAS:

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Q Okay. Do you remember if he was fanning as you indicated earlier from left to right with his right hand when you shot your first round?
A When I shot, the handgun was pointed at me.
Q Did you see him fall to the ground?
A Yes.
Q How did he fall?
MR. BRENTE: I'm going to object that was answered -- asked and answered, too.
BY MR. CASILLAS:
Q Do you remember testifying that you said he fell to the left?
MR. BRENTE: No, that's exactly not what he said. He fell to his right side. Ask the reporter to look it up. You shouldn't do that. You shouldn't say things you know are completely false to try to trick him.
BY MR. CASILLAS:
Q Mr. Urrutia, did he fall -- did you see his knees bend?
A I saw him fall.
Q I appreciate that. Did you see his knees bend?
A I saw him fall.
Q And just to make sure, other than testifying

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that you saw him fall, can you describe how it was that he fell other than saying that he fell to his right?
A I saw him fall. He fell to his right side.
Q Did he fall directly to his right or did he fall slightly forward?
A To me it looked --
MR. BRENTE: If you remember, tell him.
THE WITNESS: Yeah.
MR. BRENTE: If you don't remember, tell him you don't remember.
THE WITNESS: It looked like he fell to his right.
BY MR. CASILLAS:
Q And did he eventually -- did his torso, the upper part of his chest come in contact with the ground at any time after the shooting that you saw?
A I don't recall.
Q Had you fallen to the ground by the time -- and by the way, did you trip?
MR. BRENTE: Okay. So now we're switching subjects.
MR. CASILLAS: Yeah.
MR. BRENTE: Go ahead.
BY MR. CASILLAS:

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Q Did you trip?
MR. BRENTE: Are you asking what he knows now or what his impression was at the time?
MR. CASILLAS: Does he know today.
BY MR. CASILLAS:
Q Did you trip?
A To this day, I'm not even sure if the vehicle is the one that pushed me when I tripped.
Q And I was going to get into that.
The rear passenger door was never open, correct?
A It wasn't.
Q Do you remember the vehicle coming into contact with you in any way before you fell?
A I was in constant contact with the vehicle.
Q And did you -- were you using it like maybe for support or something?
A As cover.
Q Okay. So did you have your hand on it or were you leaning against it, if you remember?
MR. BRENTE: Objection; vague as to time.
BY MR. CASILLAS:
Q And, again, this is after you shot him before you fell.
A I'm sorry. What was your question, sir?

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Q Do you remember being in contact with the vehicle in any specific way, your hand on it, leaning against it?
MR. BRENTE: And he said it was after you shot and before you fell is what his question -- his timeframe was.
THE WITNESS: I was next to the vehicle.
BY MR. CASILLAS:
Q And as you sit here today, do you remember the vehicle pushing you to the ground?
A Like I said, I'm still not even sure what exactly happened.
Q All right. And you don't remember maybe tripping over your own feet?
A Could have. I still don't remember. I don't know.
Q You hit your elbow on the ground.
A Yes.
Q Your right elbow.
A Yes.
Q And it was painful.
A Oh, yes.
Q Did your head hit the ground?
A Possibly.
Q Did you see the car hit Mr. Rivera?

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A No.
Q Because you were on the ground yourself, right.
MR. BRENTE: Well, that just calls for speculation.
MR. CASILLAS: No, I'm asking.
MR. BRENTE: He wouldn't know, but --
MR. CASILLAS: I don't know if he knows. You might know. I don't know.
THE WITNESS: No, I did not see him.
BY MR. CASILLAS:
Q At any time after you got back up, did you see Mr. Rivera at all?
A No.
Q I understand that other folks showed up and then you were taken away by a supervisor. Yes?
MR. BRENTE: He was taken away by a supervisor?
BY MR. CASILLAS:
Q I'm sorry. You were taken away by the ambulance, correct?
A Yes.
Q All right. And did you give any statement to anybody from the LAPD while you were at the hospital?

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A At the -- I can recall I gave a public safety statement.
Q Sure. At the location.
A I don't recall where it was at.
Q All right. And at the hospital did you give any statements to anyone from the LAPD?
A Can you be more specific?
Q Sure. Did somebody from the Los Angeles police department in any capacity come to the hospital to interview you about the facts and circumstances of the shooting?
A FID showed up.
Q At the hospital?
A Yes.
Q And did you give a statement to them?
A No.
Q Was your attorney present with you?
MR. BRENTE: At the hospital?
MR. CASILLAS: Yes.
THE WITNESS: I believe he showed up, yes.
BY MR. CASILLAS:
Q And I think three days or so later you gave the statement that we discussed earlier, correct?
A Yes.
Q Initially -- last question I wanted to ask

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you about the encounter with Mr. Rivera and your observations, and I'm trying to get the sequence here. I remember you telling me you issued a command.

When you issued the command, was he still walking southbound?

A No.

Q At some point as he was walking southbound, did you see him turn toward you?

A At one point he turned towards me.

Q And did you see whether he turned to his right clockwise or to his left counterclockwise?

A It was counterclockwise.

Q So he turned to his left, yes?

A Yes.

Q And as he was -- before he turned to his left, did you see whether he had anything -- did you look to see whether he had anything in his right hand or his left hand?

A Sorry. Can you be more...

Q Yeah. You told me that he was walking southbound. He was walking away from you.

A Yes.

Q And I think you told me the totality of the circumstances told you that he may be the suspect,

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correct?

A Correct.

Q Before he turned around and before you issued that command, did you look to see if there was anything in his right hand or his left hand?

A All I remember is seeing a handgun in his right hand.

Q After he turned around, correct?

A He faced me.

Q I understand that. So I want -- my question relates to your observations before he turned around.

Do you understand that?

A Yes.

Q Okay. Before he turned around, again, he's walking southbound.

A Uh-huh. Yes.

Q He doesn't turn around yet. Any time during that portion that he walked, did you look to see if there was anything in his right hand or his left hand?

A No, I didn't. No.

MR. CASILLAS: Okay. I don't think we have any more questions for you.

I propose the following stipulation with respect to the handling of the transcript: that's to

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relieve the court reporter of her duties under the Code; and that she be so relieved upon her depositing the original transcript addressed to defendants' counsel, Mr. Brente; that he agree to be the custodian of the original transcript, produce it upon reasonable notice for any proceeding related to this case; and that he'll also agree to lodge the original -- the signed original at trial; that we also agree that Mr. Brente will provide the original transcript to the deponent, asking him to read it, to sign it under penalty of perjury, and to make any changes that he feels are necessary; and that Mr. Brente agree to notify me in writing of the doing of all of those things, his reading, his signing under the penalty of perjury; and to the extent that he makes any changes, any changes that he may make; and that we also agree that an original -- if the original is unavailable for any other proceedings for any reason, that a certified copy of the transcript can serve for any purpose that the original signed transcript can serve for.

MR. BRENTE: So stipulated.

MR. CASILLAS: All right. We'll take a five-minute break and we'll get on to the next one.

MS. REPORTER: Did you want a certified

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copy?

MR. BRENTE: I do. And then the four with the one, two, three, four condensed with the word.

THE VIDEOGRAPHER: Do you need a copy of the video?

MR. BRENTE: Yes, please.

THE VIDEOGRAPHER: This concludes today's proceedings.

MR. BRENTE: But I want it synced to the transcript, please.

THE VIDEOGRAPHER: This concludes today's proceedings. The total number of DVDs used was three. We're going off the record. The time is 2:33.

(Deposition concluded at 2:33 p.m.)

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STATE OF CALIFORNIA)
) ss:
COUNTY OF ORANGE)

I, GINA ANNE GEORGE, do hereby certify:

That I am a duly qualified Certified Shorthand Reporter, in and for the State of California, holder of certificate number 11260, which is in full force and effect and that I am authorized to administer oaths and affirmations;

That the foregoing deposition testimony of the herein named witness was taken before me at the time and place herein set forth;

That prior to being examined, the witness named in the foregoing deposition, was duly sworn or affirmed by me, to testify the truth, the whole truth, and nothing but the truth;

That the testimony of the witness and all objections made at the time of the examination were recorded stenographically by me, and were thereafter transcribed under my direction and supervision;

That the foregoing pages contain a full, true and accurate record of the portion of the proceedings and testimony which was not designated as confidential to the best of my skill and ability;

That prior to the completion of the foregoing deposition, review of the transcript was requested.

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I further certify that I am not a relative or employee or attorney or counsel of any of the parties, nor am I a relative or employee of such attorney or counsel, nor am I financially interested in the outcome of this action.

IN WITNESS WHEREOF, I have subscribed my name this ____ day of _____, ____.

_____

GINA ANNE GEORGE, CSR No. 11260

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PENALTY OF PERJURY CERTIFICATE

I hereby declare I am the witness in the above captioned matter; that I have read the foregoing transcript or that it has been read to me, and I know the contents thereof; that the transcript is true to my knowledge, except as to those matters which are herein stated upon my information or belief, and as to those matters, I believe them to be true; that I find the transcript to be a true and accurate transcription of the portion of my testimony which was not designated as confidential, with the following corrections, if any:

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on the ____ day of _____ 20___,

at _____, _____.
(City) (State)

_____

ARTURO URRUTIA

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